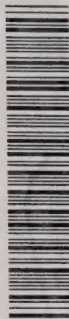


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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

2 May 1984

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Wednesday, the 2nd day
of May, 1984.

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

APPEARANCES:

P.S.A. LAMEK, Q.C.)	Commission Counsel
E. CRONK)	
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
	of Ontario (Crown Attorneys
	and Coroner's Office)
I.G. SCOTT, Q.C.)	Counsel for The Hospital
I.J. ROLAND)	for Sick Children
M. THOMSON)	
R. BATTY)	
D. YOUNG	Counsel for The Metropolitan
	Toronto Police
K. CHOWN	Counsel for numerous Doctors
	at The Hospital for Sick
	Children
E. McINTYRE	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd) ..



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APPEARANCES: (Cont'd)

D. BROWN	Counsel for Susan Nelles - Nurse
G.R. STRATHY	Counsel for Phyllis Trayner - Nurse
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic Lombardo (parents of deceased child Stephanie Lombardo); and Heather Dawson (mother of deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines)
J. SHINEHOFT	Counsel for Lorie Pacsai and Kevin Garnet (parents of deceased child Kevin Pacsai).



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---On commencing at 10:00 a.m.

MR. BROWN: Sir, with respect to the argument in Phase II.

THE COMMISSIONER: Yes.

MR. BROWN: I spoke to Mr. Sopinka. The trial is going slowly over there.

THE COMMISSIONER: He can't impress me.

MR. BROWN: There is a chance that it will be over early next week. I consulted with Mr. Young, and Mr. Percival is available on Wednesday morning.

THE COMMISSIONER: And is Mr. Sopinka, will he expect to be available Wednesday morning?

MR. BROWN: We will know much better by the end of the week.

THE COMMISSIONER: Yes.

MR. BROWN: If that is not the case Mr. Young has advised that Mr. Percival is not available any other day that week and I would suggest that it be set down for the following Monday.

I know that you want to get argument done with quickly, and we are just as eager as you, sir, to commence with Phase II.

THE COMMISSIONER: Yes. All right.



1 Then we will put it tentatively for Wednesday next
2 week.

3 MR. YOUNG: Sir, if I might explain,
4 Mr. Percival is at the Law Reform Commission Monday
5 and Tuesday of next week.

6 THE COMMISSIONER: Yes.

7 MR. YOUNG: As we discussed he is
8 available this Thursday but Mr. Sopinka isn't.

9 The only other day that he is available
10 is next Thursday - I am sorry, next Wednesday, and we
11 would be happy to have argument at that time.

12 I have spoken to Mr. Scott and Mr.
13 Strathy and they are available as well. Now we are,
14 as you, sir, most anxious to have this argument take
15 place and to have some sort of decision.

16 THE COMMISSIONER: Yes. Well, do
17 we make a tentative date then for Wednesday? Is
18 that the thought?

19 MR. BROWN: If we could, sir, subject
20 to Mr. Sopinka's availability, and I will advise
21 certainly Commission Counsel at our earliest
22 opportunity as to whether or not he will be available.

23 MR. STRATHY: Just to clarify one
24 thing Mr. Young said, sir, I can't be there on
25 Wednesday but it doesn't concern me. If it goes
ahead I will have somebody there.



1 THE COMMISSIONER: I am not at all sure
2 what your status is in Phase II now. You may be
3 perfectly happy to be robbed of status, I don't
4 know.

5 What do you say about this, Miss
6 Cecchetto?

7 MS. CECCHETTO: We will be ready on
8 Wednesday.

9 THE COMMISSIONER: Well everybody is
10 invited to come. I am not at all sure of what
11 standing anybody is going to have in Phase II, but
12 I suppose there is no reason why you can't be here
13 and participate in that problem.

14 Maybe we will consider the problems
15 of standing in Phase II at that time as well, I
16 don't know. It might be if we are going to reserve
17 a day we might as well do the same thing. Does
18 anybody see any objection to that procedure?

19 MR. SCOTT: Mr. Commissioner, could
20 we also at some time have a meeting of counsel (I
21 don't think it needs to be a public meeting) to
22 discuss the schedule for the balance of Phase I.
23 You remember when we met to discuss that last time
24 we broke up in disarray.

25 THE COMMISSIONER: Well, it is being
worked on. It is being worked on constantly - am



1 I not right, Miss Cronk?

2 MS. CRONK: Yes you are, sir.

3 THE COMMISSIONER: The idea is to
4 reduce the potential problems to a minimum and then
5 to discuss those. I thought there was to be a
6 discussion with you --

7 MR. SCOTT: Oh, I am not referring
8 to that problem. We have that under control.

9 THE COMMISSIONER: Oh, yes.

10 MR. SCOTT: I am talking about the
11 problem of argument and how that should be scheduled.

12 THE COMMISSIONER: What I have in mind
13 is that we will have an adjournment for the preparation
14 of argument, and then I will have a fight with counsel
15 all of whom will want six months and I will want six
16 hours, and we will try to reach a compromise.

17 MR. SCOTT: Yes. There are some other
18 problems associated with that beside the one you
19 advert to, and I think it would be useful if either
20 with Commission Counsel or with yourself we had
21 occasion to discuss it.

22 THE COMMISSIONER: There is no reason
23 why we can't. Is it going to take long?

24 MR. SCOTT: No.

25 THE COMMISSIONER: Well, what about
this afternoon at 2:15 upstairs?



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MR. SCOTT: Mr. Roland is available.

THE COMMISSIONER: You haven't checked with Miss Thomson yet.

MR. SCOTT: Mr. Sopinka, of course, will be hopeless.

THE COMMISSIONER: Well, you obviously had something you want to raise and you obviously want to raise it in camera. Am I right?

MR. SCOTT: It doesn't have to be raised in camera. It is simply the order of the submissions. We are of the view that Commission Counsel should make submissions either orally or make a summary of them available in advance of the necessity of our preparing submissions because the position that Commission Counsel is going to take is going to markedly affect the arguments of other participants.

THE COMMISSIONER: Have you any thoughts on that?

MS. CRONK: Yes, Mr. Commissioner. Mr. Lamek and I have discussed this with a number of other counsel and I have absolutely no hesitation in suggesting that we meet at 2:15 to discuss it, but could I suggest two things: first of all, may I have an opportunity to ensure that Mr. Lamek will



1
2 be available at 2:15 to do that, and secondly, could
3 we see how the evidence of Dr. Kauffman progresses
4 because I would hate to see his departure delayed
5 for a meeting that could easily be deferred until
6 tomorrow.

7 THE COMMISSIONER: Yes, I think we
8 will bear that in mind and we will have a meeting
9 to discuss that if it is necessary.

10 MR. SCOTT: If it can't be avoided.

11 THE COMMISSIONER: If that is the
12 only thing you want if we agree, then do you need to
13 have a meeting?

14 MR. SCOTT: No.

15 THE COMMISSIONER: No. All right.
16 Well then maybe we can avoid the whole thing --

17 MS. CRONK: I am not sure I would
18 be prepared to go that far that quickly.

19 THE COMMISSIONER: Mr. Lamek has
20 appeared.

21 MR. SCOTT: If you are prepared to
22 do things my way we don't need a meeting of lawyers
23 to mess it up.

24 THE COMMISSIONER: Do you want to
25 say anything?

MR. LAMEK: I was wondering, Mr.



1
2 Commissioner, if we could deal with this matter next
3 Wednesday after we have dealt with the Phase II
4 matters. I would be surprised if we took the whole
5 day on the --

6 THE COMMISSIONER: That seems to be
7 satisfactory to Mr. Scott so we will leave it. It
8 may all be resolved by that time.

9 MR. LAMEK: Yes, thank you.

10 THE COMMISSIONER: Now, Miss Cronk?

11 MS. CRONK: Thank you, sir.

12 Mr. Commissioner, I would like to
13 recall Dr. Ralph Kauffman. Dr. Kauffman.

14 RALPH KAUFFMAN, (Recalled)

15 THE COMMISSIONER: Good morning, Doctor.
16 I am sure you can hardly believe that we are still
17 at it.

18 THE WITNESS: I could hardly believe
19 that I got called back.

20 DIRECT EXAMINATION BY MS. CRONK: (Continued)

21 Q. Dr. Kauffman, you have been
22 sworn before in these proceedings and at the time of
23 your last attendance before the Commissioner your
24 qualifications and background were discussed in some
25 detail. I don't propose to review them again.

You will recall that during your last



1
2 attendance you gave evidence concerning Allana Miller,
3 a child who died on Cardiac Ward 4A on March 21, 1981
4 at approximately 3:27 in the morning. Do you recall
5 that?

6 A. Yes, I do.

7 Q. You completed your evidence
8 here, Dr. Kauffman, on December 19, 1983. After you
9 completed your evidence at that time before the
10 Commissioner were you in early 1984 contacted by
11 the Commission and informed of certain evidence
12 introduced through a witness by the name of Bertha
Bell in early February, 1984?

13 A. Yes, I was.

14 Q. Were you requested in light
15 of that evidence to undertake for the Commission a
16 further review of the circumstances surrounding the
17 death of Allana Miller and the digoxin concentrations
18 found in that child's post mortem blood specimens
and her fixed tissue samples?

19 A. Yes, I was.

20 Q. Was the nature of the
21 evidence of Ms. Bell and that request by the
22 Commission for a further review by you confirmed
in writing?

23 A. That is correct.
24
25



1
2 Q. Doctor, I am showing to you
3 a letter dated February 14, 1984 from the Commission
4 addressed to yourself. Can you tell me is this the
5 written confirmation you received as to the request
6 being made of you by the Commission for a further
7 review of the circumstances surrounding the death
8 of Allana Miller in light of the evidence outlined to
you as given by Bertha Bell?

9 A. Yes, it is.

10 MS. CRONK: Mr. Commissioner, could
11 this be marked as the next exhibit, sir?

12 THE COMMISSIONER: Yes.

13 THE REGISTRAR: Exhibit 403.

14 THE COMMISSIONER: 403.

15 ---EXHIBIT NO. 403: Letter dated February 14, 1984
from the Commission to Dr.
Kauffman.

16 MS. CRONK: Q. Dr. Kauffman, as a
17 result of the receipt by you of this letter from the
18 Commission what did you understand that you were
19 being requested to do?

20 A. My understanding was that I
21 was asked to consider the plausibility that a
22 digoxin dose could have been placed in the buretrol
23 of the intravenous system being used by Allana Miller
24 at that time and to make a judgment as to whether or
25



1
2 not under circumstances outlined in the letter this
3 could have accounted for her symptoms and the serum
4 concentrations and the tissue concentrations documented
5 on the record.

6 Q. Were you asked, Doctor, as
7 you understood it, to make an assumption regarding
8 the time at which that potential dose of digoxin
9 might have been administered?

10 A. Yes, I was. I think the
11 assumption I was asked to make was that a digoxin
12 dose had been placed in the buretrol at approximately
13 11:51 on March 20th.

14 Q. You were then asked I take
15 it, as you understood it, to assume both the time of
16 administration and method of administration of the
17 dose?

18 A. That is correct.

19 Q. As a result of the written
20 request that you received from the Commission did
21 you prepare a written report in letter form to the
22 Commission outlining your opinion on those matters?

23 A. Yes, I did.

24 Q. Doctor, I am showing you a
25 letter dated March 14, 1984, addressed to the
Commission, purporting to be under your signature



1
2 to which are attached two articles from the literature.

3 Can you tell me if that is the written
4 report that you submitted to the Commission as a
5 result of the written request which was forwarded to
6 you?

7 A. Yes, it is.

8 MS. CRONK: Thank you. May that be the
9 next exhibit, sir?

10 THE COMMISSIONER: Yes, 404.

11 ---EXHIBIT NO. 404: Copy of letter report of Dr.
12 Kauffman with attachments.

13 MS. CRONK: Q. Can you outline for
14 us, Dr. Kauffman, briefly if you would, what your
15 conclusion or conclusions were as a result of the
16 further review that you undertook in light particularly
17 of the evidence of Miss Bell as outlined to you by
18 the Commission?

19 A. In response to the specific
20 questions and conditions addressed to me it was my
21 conclusion that administration of a digoxin dose
22 in the buretrol of the infant at the approximate time
23 outlined in the letter from the Commission could have
24 accounted for the clinical course and the findings
25 in this infant.

Q. And by the findings to what are



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you referring?

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A. I am referring to the clinical

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symptoms, the course of the death events and the

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serum as well as the tissue concentrations that were

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found post mortem.

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Q. In reaching that conclusion, Doctor, were you required to make certain further assumptions?

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A. Yes, I was.

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Q. Do we find those outlined on page 2 of your reporting letter to the Commission?

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A. That's correct.

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Q. I am looking Doctor at approximately two-thirds of the way down the page at page 2 of your letter. As I understand it you indicate:

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"For purposes of addressing your question I have therefore assumed the following:"

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And the first part of the first assumption indicates that you assumed that the dose was placed in the buretrol at 11:51 p.m. Stopping there for a moment. In light of what you have told us, that assumption I take it was based on the evidence of Bertha Bell as outlined to you and the letter of instruction which you received from the Commission, is that correct?

22

A. That's correct.

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Q. And continuing in that subparagraph you indicate further that you assumed the dose was diluted in a total volume of 15 millilitres



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of fluid. of

fluid."

Do I have that correctly?

A. That's correct.

Q. Can you tell us please Doctor
the basis for that assumption?

A. That was a somewhat arbitrary
volume based on my experience from hospital practice,
being a volume in the mid range of volumes commonly
used by nursing staff to dilute drug doses when
they are placed in the buretrol.

Q. When you refer Doctor to a
volume of 15 millilitres of fluid are you referring
to the amount of fluid already in the buretrol before
the drug is administered or are you referring to
something else?

A. I am referring to the total
volume into which the drug dose would have been
diluted prior to beginning the infusion of the drug
dose.

Q. Does that figure then, based
on the assumption that you made, represent the total
amount of fluid that would have been available for
infusion into the child after the administration of
the dose?



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A. Up until the time additional fluid would have been added to the buretrol. When this is done usually the practice that I am familiar with is that the dose of the medication is injected into the buretrol, into essentially an empty buretrol and additional IV fluid from the bag is run into the buretrol to dilute the dose into some volume. Then that volume is allowed to run into the patient at some set rate. When that volume has completely exited the buretrol then additional intravenous fluid is added to the buretrol to continue the IV infusion.

Q. So that I understand Doctor are you then assuming that approximately 15 millilitres of fluid would have been released from the IV bag to enable or to assist dilution of the drug into the child?

A. Yes.

Q. All right.

A. I am assuming a total volume, so, it would be 15 millilitres minus whatever small volume the drug dose was.

Q. The drug itself?

A. Yes.

Q. And your second assumption, as



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I take it from your reporting letter was that the tubing, I take that to mean the tubing of the IV apparatus that was in use for this child, was a standard length which contained approximately 18 millilitres of volume. Do I have that correct?

A That's correct.

Q. Can you tell us please first what you mean by that and, secondly, what the basis was for that assumption?

A. The length of tubing commonly used to run from the buretrol to the vein of the patient can be somewhat variable but a common length will contain approximately 18 to 20 millilitres of fluid. This is a volume which has been measured and has been published in the intravenous fluid literature and is commonly cited. It can vary somewhat, is infrequently less than that, occasionally more than that if the extension tubing is used.

Q. Doctor, we have an IV apparatus available here that has been marked as an exhibit. If I simply picked it up and with a ruler attempted to measure the amount of tubing from the end of the buretrol down to the last injection site into the child is that the length of tubing to which you refer?



B5

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2 A. I am referring to the length
3 from the buretrol to the injection site of the
4 patient. If I understand you right my answer is
5 yes.

6 Q. All right. If I simply picked
7 up the IV apparatus and measured from the bottom of
8 the buretrol to the final end of the IV tubing is
9 that all there is to it in terms of arriving at your
10 18 millilitres?

11 A. Well, that doesn't tell you the
12 volume, it tells you the length of the tubing. The
13 volume would depend on the internal diameter of
14 the tubing multiplied by the length. So, unless I
15 knew the specification of the tubing, in other words,
16 how much volume was contained in a linear centimetre
17 of tubing I wouldn't be able to relate length to
18 volume.

19 Q. And that I take it could vary
20 depending on the manufacturer?

21 A. Yes, it could.

22 Q. And then Doctor your third
23 assumption as I read it was that the IV rate was
24 maintained at approximately 15 millilitres per hour.
25 Are you referring there to the IV flow rate?

A. Yes.



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Q. Can you help us please as to the basis for that assumption in this case?

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A. This is extrapolated from information on the intravenous fluid records from the patient's chart.

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Q. Do you have a copy of Allana Miller's chart?

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A. Yes, I do. If you refer to page 35 and 36 of the patient's chart.

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Q. You are referring to the flow sheet?

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A. Yes, I am referring to the flow sheet. You will notice that at the end of every approximately 8 hours a total volume of intravenous fluid infused during that prior period of time is recorded. On page 35 about half way down in the column under IV 8 hours, we see the figure 120.

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Q. That's at 7:00 a.m. on the 20th of March?

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A. Yes.

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Q. Yes.

A. Now, that should reflect the amount of fluid infused during the approximately previous shift or 8 hours and if you divide that time into that total volume you get a number,



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I think approximately 15 millilitres per hour average infusion rate. If you look then towards the bottom of the page in the same column you will see a figure 118 and again if you divide the time interval into that volume you get a quotient I think in the neighbourhood of 12. That reflects the average flow rate during that time period.

Then at the top of page 36 in the same column you will see the figure 136. And again if you divide the time interval into 136 I think you get a number of approximately 15 millilitres per hour average flow rate. So it seemed that the intravenous flow rate was fairly consistently averaging 15 millilitres per hour during the recorded time course and that is the basis for my assuming an intravenous rate of approximately 15 millilitres per hour.

Q. Doctor, in arriving at that assumption did you take into account as well the amount of fluid which the child was prescribed to receive?

A. You mean the total amount?

Q. Yes.

A. Only secondarily. The order is written for the child to receive a total of 26



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millilitres per hour both oral and intravenously.
That was the order. I think when an order like that
is written what the nurse usually does is balances
out what the patient takes orally and then
adjusts the intravenous quantity to make sure that
the patient receives the ordered amount of fluid.

That doesn't tell us how much
intravenous fluid the patient got, what tells us
the quantity of intravenous fluid are the numbers
I just quoted to you.

Q. Could I ask you to look at page
28 of the child's chart. Do you have that, Doctor?

A. Yes.

Q. There is a doctor's order dated
March 20th, 1981, at the bottom of the page and it
refers to 26 cc. per hour IV and PO orally and 100
cc., is that per day?

A. Per kilo per day.

Q. Per kilo per day. Is that the
order to which you just referred?

A. Yes.

Q. In addition to these assumptions,
Doctor, did you as well make any estimates concerning
the infusion rate or the infusion time which in your
judgment you felt would likely or probably have



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applied in this case?

A. The infusion rate of - are
you referring to the infusion rate of the fluid again?

Q. Yes.

A. I'm not sure I understand your
question. I made the assumptions I just outlined
for you.

Q. I'm sorry, apart from the
assumptions that we have just discussed, did you as
well consider the time frame within which portions
of the dose might have actually reached the child?

A. Oh, of the drug?

Q. The infusion time.

A. Yes, I did.

Q. Can you tell us please what
your estimates were in that regard?



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A. I estimated that if a dose was placed in the buretrol and infused and under these conditions, that it would take approximately 70 minutes for the first portion of the drug dose to reach the patient, that I wouldn't expect symptoms to occur from any digoxin at that point because the amount reaching the patient would be so small. Then over the next 50 minutes or so approximately 85 per cent of the dose would be infused with the rest infusing more slowly over the subsequent hours.

Q. What did you base those estimates on?

A. I based those estimates on published literature which describes the physics of drug infusion characteristics in intravenous systems.

Q. Are those the articles which you have attached to your reporting letter?

A. These were the articles that I thought were most - these articles don't comprise all of the literature on the subject, but they are articles that I thought were most directly relevant to resolving - to responding to this particular question.

Q. Are those two articles which are appended to your report, are those which you relied



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upon in making your estimates as to the infusion time?

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A. Yes.

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Q. Doctor, when you were making your assumption as to the time at which the dose was administered and the method by which it was administered, did you take into account, or were you able to make any assumptions concerning whether or not the I.V. line had been flushed?

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A. I had to know information one way or the other. So I assumed for purposes of responding to the question that it had not been flushed, but simply because I had no information one way or the other.

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Q. Doctor you told us that you assumed that in light of the instructions and requests that you received that the dose was administered at approximately 11:51 p.m. on March the 20th, do I have that right?

18

A. That's correct.

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Q. Had the intravenous line of Allana Miller been flushed shortly before that dose was given, would that have any effect on the calculations that you have made and the conclusions you reached, or are you able to tell us?

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A. If the line had been flushed prior



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to that dose and the conditions then had been as I have assumed it wouldn't make any difference in my calculations, in my estimations.

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Q. Can you tell me why that is.

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A. Because flushing with a line prior to initiating the infusion of the drug dose would not have any effect on the infusion of that dose.

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Q. It wouldn't have any effect on the flow rate or the volume?

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A. Not if the system, the rate that was set at the rate I have assumed.

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Q. What if the I.V. line had been flushed shortly after the dose had been administered into the buretrol?

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A. If the dose was allowed to leave the buretrol at the rate that I have assumed and then after the buretrol was empty the line was flushed, I would expect the dose of the drug to get to the patient and into the patient somewhat more quickly than what I have estimated. It is virtually impossible for me to tell you how much more quickly because there are so many variables that have to be defined to estimate that, that I really can't be more precise than that.

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Q. Can you tell me in general terms



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what kind of variables you would be concerned about
in that kind of situation?

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A. It would depend on the rate of
flow during the flush. It would depend on the volume
used to flush the I.V. line. And again, the other
variables that I have outlined, in other words the
length of the intravenous tubing, the volume contained
in the tubing and the rate at which the drug dose
had actually left the buretrol prior to the flush.

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The other thing that is totally - seems
to be unpredictable is that even after a flush
variable quantities of the drug dose seem to remain
in the tubing because of lamina flow and the drug
tends to lay out on the peripheral part of the
diameter of the tubing. We looked at this phenomena
in the last year of study that we did at our Hospital
using a drug called theophylline, and found that
after infusion of theophylline dose into a patient
from the buretrol and then flushing the tubing by
standard nursing practice, that we could still
detect significant concentrations of theophylline
in both the proximal and distal ends of the tubing
even after a flush, so there are variable quantities
of the drug dose remaining even in the tubing after
a flush, and I can't predict what that would be.



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Q. Some residue based on your
experience of your drug study?

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A. Yes, some residue.

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Q. Doctor you will recall on the
occasion of your last attendance here we reviewed
the two reports which you did for Mr. Jerome Wiley
and in this context your opinion as expressed at that
time with respect to Allana Miller. Would it be
fair of me to suggest that in undertaking this
further review you were asked to assume two things
not then available to you. That is the time at
which the dose had been given and the mode of
administration?

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A. Those were two additional pieces
of information that were provided to me for this
more recent evaluation, yes. I didn't have this
available to me in my - prior to late February or
March of this year.

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Q. In neither situation, that is
neither at the time that you prepared your reports
for Mr. Wiley, nor in the context of preparing this
opinion for the Commission, did you have available
to you any information concerning the size of the dose
that might have been administered?

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A. That's correct.



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MS. CRONK: Thank you very much, doctor
those are all my questions.

THE COMMISSIONER: Yes. Thank you.
Are you ready to proceed, Mr. Brown?

MR. BROWN: It is a mute point, we have
no questions of this witness.

THE COMMISSIONER: Do you want to
proceed now?

MR. STRATHY: Pardon.

THE COMMISSIONER: Do you want to
proceed now?

MR. STRATHY: Yes.

THE COMMISSIONER: Yes, all right.

CROSS-EXAMINATION BY MR. STRATHY:

Q. Doctor, my name is Strathy and
I represent Phyllis Trayner. Now, do you have in
front of you Exhibit No. 4, which is your letter of
March the 14th, 1984?

A. Yes, I do.

Q. I understand from that letter and
from what you have just said to Ms. Cronk that for
the purposes of giving an opinion to the Commission
today you were asked to assume certain facts and
provide the Commission with an opinion based on those
assumed facts, is that right?



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A. Yes, that's correct.

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A. Yes, that is correct.

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Q. As Ms. Cronk pointed out the assumptions were, first of all a time of administering namely between 11:51 and midnight?

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A. Yes, that's correct.

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Q. And secondly, a further administration, and assumed mode of administration namely into the buretrol?

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A. Yes, that's correct.

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Q. And at the outset of your letter you have said in the first paragraph what you understood your task to be, is that so?

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A. Yes.

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Q. You have said:

"I am writing as you requested to provide the Commission with my opinion as to whether or not a dose of digoxen administered at approximately 12 midnight into the intravenous buretrol of Allana



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Miller could account for the clinical symptoms she exhibited, the onset and type of terminal events, as well as the concentration of digoxen subsequently found in her post mortem blood sample and fixed tissue."

And do I understand correctly, doctor, that that was the only thing that you were asked to review for the purposes of your re-attendance here today?

A. You mean this single issue?

Q. Yes.

A. Yes, that's correct, that was my understanding.

Q. I hope we will keep to that. Just to be clear then, you were not asked to reconsider any of the other opinions that you expressed in your report Exhibit 266, or your reports Exhibit 266 ---

A. With regard to this case?

Q. No except as regards to this specific case?

A. No. I was asked to review all materials related to Allana Miller's case, everything that I had done previously both in consulting as well



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testimony, the medical record and everything, but
I restricted it to just this case, just this patient.

Q. You were not asked to review any
of the other patients?

A. No, I was not.

Q. Nor were you asked to review any
of your evidence pertaining to the other patients?

A. That's correct.

Q. May we take it doctor that you
stand by, insofar as the other children are concerned,
the opinions that you expressed in your report,
Exhibit 266 and in your evidence when you were last
here



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A. I stand by that until I am given additional information to reconsider it.

Q. Or until additional assumptions are put to you?

A. Yes.

Q. But insofar as you stand here today can we take it that you are prepared to stand by your report and the opinions you gave concerning other children?

A. Yes.

Q. And, Doctor, concerning the properties of digoxin and the problems inherent in testing for digoxin in the various type of samples that we have been confronted with here today, do you also stand by the opinions you expressed in your two reports and in your evidence before the Commission last day?

A. Yes, I do.

Q. Thank you. Now in the second paragraph of your letter you say:

"I have reviewed the copy of Allana Miller's chart, selected excerpts of my testimony pertaining to Allana Miller and the testimony of Miss Bell provided by your office."



D.2

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Just so that I am clear were you provided with all
Nurse Bell's evidence?

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A. I think I was only provided
with the portion of her evidence relating specifically
to Allana Miller.

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Q. But so far as you --

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A. That was my understanding.

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Q. Were you provided with the

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various cross-examinations of the evidence of Nurse
Bell pertaining to Allana Miller?

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A. Yes. Yes.

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Q. But it was strictly in relation
to Allana Miller?

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A. Yes.

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Q. As Miss Cronk quite properly
pointed out in her letter to you, Exhibit 403 - do
you have that in front of you?

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A. Yes, I do.

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Q. The letter of February the 14th.

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On the second page in the first full paragraph on the
second page Miss Cronk points out in the second
sentence that Miss Bell was not certain in fact
that the medication administration or what she thought
was an administration occurred at 12 midnight?

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A. Yes, I have.

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Q. And is that your recollection too from reading the evidence of Nurse Bell?

A. That was my impression, yes.

Q. But in any event for purposes of preparing your report you were simply asked to assume that what in fact was observed was the administration of digoxin at the time noted?

A. Yes. That was the request made to me so that was the basis on which I made my response.

Q. I think I know the answer to this question - I hope I do - I assume that you have not read the evidence of my client, Nurse Trayner, to the Commission in respect of that particular evidence?

A. No, I have not.

Q. So that you would not know that her evidence in fact is that at 12 o'clock she flushed the buretrol that gave no administration of any drug?

A. No, I had no way of knowing that.

Q. Nor would you know that the only administration of any drug that Mrs. Trayner made that night was a 1 o'clock prescribed



D.4

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administration of gentamicin?

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A. No, I didn't - I wasn't aware

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of that.

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Q. Well, for the purposes of our

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discussion this morning let us stay with your

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assumptions - in fairness to you that is all you

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were asked to do, to assume something so let's stick

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to that - and let us go to the third paragraph of

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your letter and you say there:

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"As with all these cases there is

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insufficient specific information on

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which to base a definite opinion but

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I will attempt to give you what, in

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my best judgment, are the realistic

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possibilities."

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You say "all these cases". I take it

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you are referring to all the children on which you

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were asked to express an opinion in your report?

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A. Yes, I think in - I was

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referring to my feeling that in each of the cases

22

there were large gaps of specific information which

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handicapped me in delivering definitive opinions.

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Q. Would it be fair to say not

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only large gaps in the information available but also

questions concerning the reliability of the



D.5

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information that was available?

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A. In some cases that's true, yes.

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Q. Would it also be fair to say that what you were trying to do in your report and in your evidence before the Commission last day is to outline the possibilities?

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A. Yes. I was trying to outline as best I could the possibilities, and was also asked from time to time to try to make a judgment on what I thought were the most probable possibilities versus the least probable possibilities.

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Q. So what we were dealing with last day and what you dealt with in your report then was a matter of, first of all, what were the possibilities, and of those possibilities what seems most probable on the evidence you had available?

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A. That's correct.

Q. And what you were really doing in your evidence last day, and also in your report, was starting from some information about the child's clinical condition, some information about administration of drugs to the children prior to deaths, specifically digoxin, some, in some cases, pre mortem serum digoxin levels and in other cases post mortem serum and post mortem tissue. That is



D.6

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the sort of raw data that you had?

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A. That is at least the large

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part of the raw data.

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Q. Is there anything else that

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you can think of that went into the raw data?

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A. Well, there were other

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laboratory tests that were available and autopsy
report and so forth.

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Q. What you were doing then is

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taking that information and trying to work back to

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a probable time of administration, probable mode of

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administration and probable amount of administration?

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A. Yes.

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Q. And for the reasons you say

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in the third paragraph of your letter the best you

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can do is come up with possibilities and then give

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the Commission what, as you said this morning, the
most probable possibilities?

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A. Yes.

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Q. Now I would like to go back

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to the evidence that you gave with respect to

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Allana Miller both in your report to Mr. Wiley and

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in your evidence to the Commissioner.

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First of all, do you have your report,

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Exhibit 266 in front of you?

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D.7

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A. This was my initial letter to
Mr. Wiley?

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Q. Yes, your letter --

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A. Yes, I think I have my copy of
that here. This was --

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Q. I am not that it is dated.

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A. It is dated I think at the end
by my signature 16-12-82.

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Q. All right. The various
questions that were posed by Mr. Wiley are appended
to your letter, and you are right, there is a hand-
written date of 16-12-82.

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A. Yes, that's correct.

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Q. Would you turn to page 6, please?
Actually it starts at page 5, your title "Summary
and Evaluation of Allana Miller", and then over at
the top of page 6 you say this:

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"The high post mortem serum

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concentrations - "

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This is with respect to Allana Miller -

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" ... are clearly within a lethal
toxic range even allowing for possible
increase in apparent concentration
due to post mortem changes. This
suggests the infant received a large



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"dose of digoxin some time prior to death. On the other hand, the myocardial concentration of digoxin is very low even allowing for 10-fold decrease in concentration due to preservation in Klotz solution."

And there you are referring to the levels of I think it was 5 and 7 in the tissue, myocardial tissue.

"The low tissue concentration and very high serum concentration indicates that death occurred soon after a large dose was administered with little opportunity for distribution to tissues. This is consistent with a large intravenous bolus injection with death ensuing within 60-90 minutes after the dose. If one assumes death occurred less than one hour after the dose, that there was no significant distribution out of the central compartment, that there was no significant elimination between the time of the dose and death, and that the drug was administered by a single bolus, a minimum possible dose may be estimated."



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And then you go on to estimate the minimum dose.

And then in the next paragraph you
say:

"It is highly unlikely that the dose was administered orally since this would require considerable volume and would be difficult to administer to such an ill infant. It is also highly unlikely that the dose was diluted in the intravenous bottle or the buretrol since that would result in a significant delay of several hours before the dose was infused. It would also be difficult to give this large dose intramuscularly without it being observed on examination."

And then, Doctor, in your subsequent letter of January 17th, 1983, which is also a part of this exhibit, there were no significant changes to your opinion with respect to Allana Miller except for one minor change, I think a typographical --

A. Just a calculation error.

Q. So is it fair to say that insofar as this report is concerned that was your best opinion as to the possibility, the most probable



D.10

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of the possibilities based on the objective data

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that you saw at that time?

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A. At the time I wrote this report,

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yes.

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Q. And indeed based on the data

that you had available at that time?

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A. Yes.

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Q. And is it also fair to say that

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in essence your evidence at the Commission last day,

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and in fairness to you you were examined by a

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battery of about 15 different people and understandably

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your evidence was twisted and attacked and varied

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from time to time but --

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A. Embarrassing is a good word.

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Q. I don't think it should be

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embarrassing to you. But is it fair to say that your

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best opinion at the time of the most probable of

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the possibilities was that the administration

19

occurred within an hour of the onset of the critical

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symptoms, and the most probable mode of administration

was an IV bolus?

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A. Yes, I think my testimony was

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consistent with that description.

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Q. Indeed just to emphasize the

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extent to which your view was, in fairness to you,

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variable, you were prepared to concede at one point it could have been as early as 30 minutes before the onset of critical symptoms and indeed when I asked you when I was cross-examining you, you indicated on your own that it could have been as early as 15 minutes before the onset of critical symptoms?

A. Yes. I think that reflects the uncertainty of these kind of estimations, that's right.

Q. The range of possibilities?

A. Right.

Q. Would it be fair to say, Doctor, leaving aside the assumptions that were put to you by Miss Cronk because they were only assumptions, and based simply on the raw data that you have mentioned already in the case of Allana Miller, that it is your opinion that the most probable of the possibilities remains unchanged, simply on the raw data?

A. I am not sure that I can answer that with an unqualified yes because I do have - I have been provided with some testimony suggesting that a dose could have been administered in a buretrol and given that, then I have to factor that into the equation.



D.12

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Q. Well, what I am asking you to do

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is to put that to one side.

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A. Ignore that testimony?

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Q. Yes, because it will be for

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the Commissioner to determine on all the evidence

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whether that evidence is reliable or not. But putting

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that aside, Doctor, and forgetting the assumptions

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that Miss Cronk put to you, and simply looking at

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the raw data which is before you - (we talked about
already this morning).

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A. Yes.

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Q. Is it fair to say that your

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opinion as to the most probable of the possibilities

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which you outline in your report, Exhibit 266, and

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which you gave in your evidence last day remains the
same?

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A. I think that is essentially

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correct. I think if I were not told any additional

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information I wouldn't change my opinion.

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Q. The opinion expressed in your --

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A. In my original opinion.

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Q. That you gave when you were

before the Commission in November.

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A. Yes, ignoring any additional

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information of any sort I wouldn't see any reason to

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D.13

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change my original opinion.

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Q. Thank you. Indeed if we look to the question that has been put to you by Miss Cronk, and which is set out in the first paragraph of your letter of March 14th, and just looking at the last part of that:

" ... (whether it) could account for the clinical symptoms she exhibited, the onset and type of terminal events as well as the concentration of digoxin subsequently found in her post mortem blood sample and fixed tissues."

And focussing specifically on that last three words "and fixed tissues" as part of the question your answer is really no, it could not account for the levels in the fixed tissues because the reason I say that, Doctor, is because you say on the third page of your letter at the end of the first paragraph:

"Given the Bell testimony ... " -
do you see that?

A. Yes.

Q. " ... everything fits reasonably well except the fixed tissue data which in and of themselves are rather



D.14

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"weak data because of all the caveats
pertaining to fixed tissue measure-
ments." •

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And then on the second paragraph on that page you say:

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"However, if all of the data except
the tissue data pointed more strongly
toward the buretrol infusion theory,
I suppose I would have to discard the
tissue data ... "

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Kauffman cr.ex.
(Strathy)

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Q. So, aren't you saying there that the thing that doesn't fit with the assumptions you have been given is the tissue?

A. It doesn't really with either scenario, that's been a difficult problem for evaluating this case all along. The tissue data are very weak and very difficult to interpret in this case and so they don't fit well with anything else that goes along with it.

Q. Well, I put to you that in this case really to live with the assumptions you've been given you have to in effect discard the tissue data, don't you?

A. To the extent that I say all they tell me is that digoxin was there.

Q. Right.

A. I discard any quantity to interpretation of those data, yes.

Q. But with your previous evidence and indeed the evidence that you give under oath to the Commissioner you could live with that tissue, those tissue levels because they were more consistent with an administration shortly before death and little diffusion of the digoxin in the tissues.

A. It was easier to attempt to



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explain them. I was never comfortable with those numbers but it was somewhat easier to explain them with that scenario than it was giving the dose a longer period prior to the critical symptom.

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Q. Well, as a scientist I take it what you try and do is account for all the data, come up with an explanation that accounts as best as can be done for all the data?

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A. What we frequently find ourselves doing is trying to fit a set of data into a hypothesis and unfortunately we frequently find something that doesn't fit and that is commonly referred to as an outlier. When we do that we try to make judgement then as to whether or not that piece of data that doesn't fit for some reason is weaker than the other data or should be attributed less weight than the other data for some reason: so that it is legitimate to disregard it at least to some degree.

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Q. But in your previous evidence and in the theory that you gave as the most probable of the possibilities it was not necessary for you to discard tissue data because it was consistent?

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A. No, I didn't have to totally disregard it. I used it as a secondary consideration



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but I didn't disregard it.

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Q. Would you not agree that

under the theory that digoxin had been infusing into
the child by IV from, let us say 1:00 o'clock
when it first started to infuse, when the digoxin
started to hit the child - am I making myself clear?

A. Yes, I think I understand what
you're saying.

Q. If we had digoxin infusing from
1:00 o'clock up until, let us say, 2:45 when, in effect,
cardiac arrest happened as I recall..

A. That's correct.

Q. Would it not be fair to say
that one would expect to find significant levels
of digoxin in the myocardial tissue.

A. I would have expected to find
whatever you mean by significant, but measureable
levels in the myocardial tissue, yes.

Q. Certainly well in excess of
five or seven nanograms per ml.

A. Well, yes. Again, we have to
be careful we don't equate those numbers to fresh
tissue concentrations.

Q. I understand that.

A. Because those numbers probably



Kauffman cr.ex.
(Strathy)

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have no quantitative meaning.

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Q. I understand that but you would still, particularly if one was viewing this as a case of digoxin intoxication, you would certainly expect to find elevated levels of digoxin in the myocardial tissue.

A. At least since the reported toxic concentration are over a ten fold range, it is difficult to define but I would expect to see a substantial amount of digoxin in the myocardial tissue. I don't think we're disagreeing.

Q. Thank you. Just to clarify one thing. If you can look at the third page of your letter of March 14, the first paragraph at the top of the page, the second sentence of that you say:

"If we accept that the fixed myocardial level which was reported in this patient ---"

A. I'm sorry, I'm not with you.

Q. I'm sorry.

A. Which letter are you referring to?

Q. This is your letter of March 14th, exhibit 404.

A. Which page?

Q. Third page.



E5

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A. Oh, I am sorry, the second

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sentence.

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Q. Top of paragraph, the second

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sentence:

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"If you accept that the fixed myocardial
level which was reported in this patient
..."

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Now, are you talking there of the myocardial level of
five and seven?

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A. Yes.

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Q. "... could have relected pre-
mortem tissue concentrations between
30 to 50 micrograms per gram ...".

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Now, its been ao long since we dealt with this evi-
dence I have forgotten these things but that is
micrograms per gram isn't it?

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A. Yes.

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Q. Did you mean micograms,

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A. No, I'm sorry that's nanograms,
I'm sorry, that's a typo.

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Q. So, what we see there instead
of the eg?

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A. It should be a nanogram, you're
correct.

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Q. If I had known that yesterday
I might have gotten to bed a hour earlier.

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A. That should be 30 to 50 nanograms



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per gram.

Q. Thank you. Now, apart from the problem of the fixed tissue and the fact that you have to in effect discard that for the purposes of your opinion on the assumptions that Miss Cronk has given you, I suggest to you that the other thing that you have to discard from your previous evidence is your opinion that these children, including Miller, most likely received digoxin from the distal IV rather than from the buretrol. Indeed, Miss Cronk anticipated that problem, if you turn to page 3 of her letter to you. She has set out and just indented two of the questions that you were asked by Mr. Wiley - two of the answers that you gave to Mr. Wiley, excuse me. First of all in answer to question number one in the middle of the page, you say:

"...In those children who received it intravenously, I think it is most likely that it ..."

that is the alleged dose of digoxin

"...was administered by injection into the distal IV rather than dilution in the IV bottle or the buretrol."

And then you went on to say in answer to question number ten:

"...I think it is highly unlikely that digoxin would be administered by dilution



Kauffmann, cr.ex.
(Strathy)

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A. I think that is correct, yes.

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Q. And I take it what you are

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saying in your evidence today - I take it from

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what you have told me first of all this morning

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that that opinion remains unchanged with respect

18

to the other children?

19

A. At the present time, yes.

20

Q. That is, that it is highly

21

unlikely that the dose was given in the buretrol for
the other children?

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A. I can't remember the specifics

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about all the cases but I think in general that's

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in the IV bag or through the buretrol.
Most of these infants probably had
fluid restriction because of their
heart disease and were receiving intra-
venous fluids at a rate of between three
and ten milligrams per hour. At that
rate there was a lag time of several
hours before the medication reaches the
vein and even longer infusion time (up
to 4 to 8 hours) before more than 80%
of the dose is infused. Although this
route of administration is a remote
possibility, I think it is highly
improbable."

And you were answering that question with respect to
all the children being reviewed by you at the time, is
that right?

A. I think that is correct, yes.

Q. And I take it what you are saying
in your evidence today - I take it from what you have
told me first of all this morning that that opinion
remains unchanged with respect to the other children?

A. At the present time, yes.

Q. That is, that it is highly
unlikely that the dose was given in the buretrol for
the other children?

A. I can't remember the specifics
about all the cases but I think in general that's



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correct, that's what I intended, yes.

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Q. Well, if you want to take a look at your report I think my reading of your report, Doctor, is that that answer applied to all the children that is, that it was highly improbable that it would be administered in the buretrol?

8

A. Yes, I agree.

9

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Q. And I take it from what you are saying today that with respect to Miller it is possible, based on the assumptions that you've been given, that it was administered in the buretrol and that you can account for it scientifically?

13

A. Yes.

14

15

Q. Would you still be prepared to agree that if it was highly unlikely in the other cases it is also unlikely in Millers?

16

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A. Well, taking all the information presented to me now I think it is more likely in this case.

19

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Q. Taking the assumption that you've been giving.

21

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A. Well, I have been given some testimony and I can't, you know, I have to decide in my own mind what kind of weight to assign to that.

23

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Q. Well, as I pointed out to you,



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or tried to point out to you, let's leave that for the Commissioner and let's put the testimony to one side, ignore the testimony.

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A. OK. If I totally ignore that information, as I said before, I think I would not change my opinion.

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Q. And if you ignore that testimony would you agree then that administration through the buretrol is unlikely?

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A. Yes.

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Q. O.K., thank you. Now, one final question. When you were here last the Commissioner that you should go away and not come back and go away as quickly as you could. But now that you are back, Doctor, I think there is one question that I would like to ask you and it arises out of a question that I asked you the last day.

17

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THE COMMISSIONER: I hope this is not a precedent, that's all.

19

MR. STRATHY: I beg your pardon?

20

THE COMMISSIONER: I hope this is not a precedent but you did make it one question.

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MR. STRATHY: Looking back on it it was a question that was much like a discovery undertaking that if the witness becomes aware of further



Kauffman, cr.ex.
(Strathy)

E10

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information.

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THE COMMISSIONER: Oh, I see.

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MR. STRATHY: Q. Doctor, let me just tell

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you --

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MS. CRONK: What volume Mr. Strathy?

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MR. STRATHY: Volume 73, page 6,000.

8

Doctor I am sure that this is not at the forefront of
your memory today. Do you have that volume?

9

A. I may have it.

10

MS. CRONK: I'll get it, what page?

11

MR. STRATHY: 6,000.

12

THE WITNESS: No, I'm not sure I have
that.

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MS. CRONK: I haven't heard the question

15

Sir and I hesitate to object in advance so I will
wait to hear the question but if the Doctor needs

16

time to review the context then I would certainly

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appreciate it. I haven't read this evidence in a long
time.

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MR. STRATHY: Q. The undertaking

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also applied to Ms. Cronk, so I hope she's not going to
be embarrassed.

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MS. CRONK: We may have to argue about
that too, you never know.

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MR. STRATHY: Q. It really starts over at 5,999 and goes to 6,000 and it is at time 17 that the undertaking is given.

MS. CRONK: Maybe you can read it out Mr. Strathy.

MR. STRATHY: Q. I will. We were canvassing the Gary Murphy inquest, Doctor where you testified in I think May of 1983 and you gave the hypothesis at that inquest that the most probable cause or explanation for Gary Murphy's digoxin levels were abnormal pathophysiology. Do you recall that?

A. Yes.

Q. And we had a discussion, you and I, about this abnormal pathophysiology and the fact that it was not something you had heard of before in relation to digoxin. I asked you at page 6,000, line 7:

"Q. Well, let me put it this way, can you refer us today to any reported cases in the literature of abnormal pathophysiology with respect to digoxin.

A. AS I stated at that time I wasn't aware of this kind of thing being documented previously.

Q. Well, perhaps, if you do become aware of it being documented previously,



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MR. STRATHY: Q. It really starts over at 5,999 and goes to 6,000 and it is that the undertaking is given.

MS. CRONK: Maybe you can read it out Mr. Strathy.

MR. STRATHY: Q. I will. We were canvassing the Gary Murphy inquest, testified in I think May of 1983 and you gave the hypothesis at that inquest that the most probable cause or explanation for Gary Murphy's digoxin levels were abnormal pathophysiology. Do you recall that?

A. Yes.

Q. And we had a discussion, you and I, about this abnormal pathophysiology and the fact that it was not something you had heard of before in relation to digoxin. I asked you at page 6,000, line seven: "Q. Well, let me put it this way, can you refer us today to any reported cases in the literature of abnormal pathophysiology with respect to digoxin."

A. As I stated at that time I wasn't aware of this kind of thing being documented previously.

Q. Well, perhaps, if you do become aware of it being documented previously, even after



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even after you have given today or
tomorrow, you might refer it to Ms.
Cronk.

A. O.K."

Q. And my question is simply
have you heard anything with respect to
the abnormal pathophysiology in digoxin?

A. Since giving this testimony
I don't recall seeing any additional scientific
evidence that throws any light on this issue.

MS. CRONK: Is that my undertaking?

MR. STRATHY: You're now absolved.

THE COMMISSIONER: Actually, Ms.
Cronk discovered lots but she's not going to tell
you.

MS. CRONK: I didn't give an under-
taking Sir.

MR. STRATHY: Q. If you hear of anything
Doctor after you have finished giving your evidence
today or in the future --

THE COMMISSIONER: No, don't. We
won't open any mail.

MS. CRONK: Don't tell Ms. Cronk, that's
right.

MR. STRATHY: Q. Thank you, Doctor.

THE COMMISSIONER: Ms. Cecchetto?



E13

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MS. CECCHETTO: I have no questions.

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MR. COMMISSIONER: Mr. Young?

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MR. YOUNG: No questions.

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THE COMMISSIONER: Mr. Roland?

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MR. ROLAND: Yes.

CROSS EXAMINATION BY MR. ROLAND:

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MR. ROLAND: Q. Doctor, just a few questions. My name is Ian Roland, I act for the hospital. In your letter of March 14th, '84, an assumption or you act upon the assumption that there was a 3 cc. administration of digoxin. Is that an adult concentration or an infant concentration?

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A. Well, the 3 cc. doesn't tell us what the concentration is.

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Q. I understand that, but what's your assumption? Is it an adult strength assumption or a paediatric strength assumption?

A. I did not make an assumption.

Q. I see.

A. As to the product.

Q. Well, does it make a difference whether it's a paediatric concentration or an adult concentration of 3 cc. of digoxin in order, and using all your other assumptions, in order to arrive at the serum concentrations that were found?



E14

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A. It makes a significant difference

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in the dose that the patient could have received.

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Q. Yes.

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A. Yes.

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Q. Yes. And I take it the amount

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of the dose and the strength of the dose, whether it

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is paediatric or adult concentration will affect the

serum level?

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A. The quantity of digoxin infused,

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yes, will determine that.

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Q. Yes, and it will affect the maximum that can be achieved at any given time as far as the serum concentration is concerned?

A. Yes.

Q. And if you assume that the 3 cc. syringe contained paediatric digoxin, can you still on your other assumptions and your opinion can you still achieve the serum concentrations that were found?

A. I would have to calculate that out, but off the top of my head I would answer that no.

Q. So you are -

A. The amount of digoxin is .05 per ml, that would be .15 milligrams of digoxin which would not be expected to produce that serum concentration.

Q. So I take it that if you substitute an adult concentration of digoxin for the paediatric concentration and apply all of your other assumptions that you can achieve the serum level that was found.

A. I believe so.

Q. Now as I understand your letter, and in addition your evidence this morning, in your



1
2 view you have to disregard the fixed tissue
3 concentration levels found.

F2 4 A. To the extent that you can't
5 take the numbers at face value, all you can say
6 is that there is some digoxin there.

7 Q. Yes, that's right, you have to
8 disregard the quantitative numbers?

9 A. Right.

10 Q. All you can say is, yes, there is
11 digoxin in the tissue.

12 A. Yes.

13 Q. I gather if that wasn't fixed
14 tissue, if that was fresh tissue, then you would have
15 a real problem in arriving at the conclusions you
16 have arrived at.

17 A. I would have an even more
18 severe problem than I have with them being fixed
19 tissues, yes.

20 Q. With fresh tissue you would
21 have a very serious problem?

22 A. It wouldn't fit at all, anything.

23 Q. Doctor, when your asked to
24 review this material were you provided with the
25 results, the test results done by Mr. Cimbura from
the Centre for Forensic Sciences in comparative



F3

1
2 analysis of fresh tissue and Klotz fixed heart
3 tissues.

4 A. He has provided me some data
5 to that effect a year or two ago. I did not review
6 that data specifically in the context of looking at
7 this case again, recently.

8 Q. Perhaps the Doctor could be
9 provided with Exhibit 95A to F, and Exhibit 213.
10 Now Doctor we know that the tissues from Allana
11 Miller were in Klotz solution, and if you turn to
12 page number 5 of Exhibit 95 you will see the
13 specimen results achieved by Mr. Cimbura at the
14 Centre for Allana Miller, and it sets out the
15 particular concentration levels for heart, lung and
16 for Klotz solution. I have reviewed the evidence
17 and I don't have it precisely when Mr. Cimbura
18 actually did this testing, but the report is dated
19 January of 1982, and we know that the tissue was
20 fixed in March of 1981, which is approximately nine
21 or ten months.

22 I am not sure, I don't have the
23 evidence of how long it was, but it was sometime that
24 it was fixed. Also if you could turn then Doctor
25 to Mr. Cimbura's results in Exhibit 213 at page 13.
I hope your Exhibit has page numbers on it?



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A. Page 13?

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Q. Yes. It is titled "Comparative
Analysis of Fresh and Klotz Fixed Heart and Lung
Tissues from Controlled Children on Digoxin Therapy",
do you see that?

6

A. Yes.

7

Q. You will see that he took
seven cases of children who were on digoxin therapy
and who died, and analysed them by RIA with respect
first to fresh tissue from heart and lung and then
fixed tissue from the same regions, the heart and
the lungs in Klotz solution for periods between six
and nine months and reanalysed that tissue by RIA
and you can see the results there. I take it if we
try and extrapolate these results to the Miller
fixed tissue from the heart and from the lungs, that
was in Klotz solution for several months, perhaps
as long as nine months, that it may be concluded that
there were substantially high levels of digoxin in
the fresh tissue of Allana Miller.

19

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A. If you use this data as a basis
for extrapolation, yes, I think you could assume that
there was substantial quantities in the heart
muscle at that time.

22

23

Q. You haven't seen this data

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F5

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2 before this I gather?

3 A. I saw, I don't know if it was
4 this exact data, but before this was ever tabulated
5 I saw preliminary data of this kind of work from
6 Mr. Cimbura informally in his laboratory. I have not
7 seen this tabulation of this specific data after it
8 was completed, but I was aware of the general quantity
9 of the data and what it showed.

10 Q. Are you familiar with any
11 similar data from any other scientist, either
12 published or unpublished, that confirms, or any data
13 that contradicts the results achieved by Mr. Cimbura?

14 A. No, I am not.

15 Q. And I gather then if we can use
16 this data to make the extrapolation that I put to
17 you, that it would be easier for you to arrive at
18 the conclusion you have arrived at in your March
19 14th letter. That is if you could assume a fresh
20 tissue number in the range of from let's say 383
21 down to a low figure of 90 - I'm sorry, we have
22 fixed tissue numbers in the range of 4 to 7, so we
23 take the range of 383 in fresh tissue down to
24 approximately 125 in case number 3. Would that,
25 if you could extrapolate those numbers of fresh
tissue for Allana Miller, would your conclusion



F6

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2 reached in your letter of March 14th, be confirmed.

3 A. I think I alluded to that
4 in page 3 of my letter when I said:

5 "If we accept that the fixed myocardium
6 level which was reported in this patient
7 could have reflected premortem tissue
8 concentrations between 30 to 50 ..."

9 And I was being very conservative there.

10 Q. Yes.

11 A.

12 "... then such premortem tissues levels
13 would not be inconsistent with the
14 scenario."

15 So I think what I have said is consistent, it agrees
16 with what you have just stated.

17 Q. In fact it is even more consistent
18 I gather from Mr. Cimbura's --

19 A. Well if you accept higher
20 numbers it makes it even easier to reconcile.

21 Q. Yes.

22 A. I hesitate to do so because of
23 the vagaries of fixed tissue concentrations, you can
24 see the enormous range even in Mr. Cimbura's data.
25 I did take that consideration into account in my
report, yes.



F7

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MR. ROLAND: Thank you.

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THE COMMISSIONER: Yes. All right,

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thank you. Well now I take it we have further

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cross-examination. What is your position Miss Chown?

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MS. CHOWN: No questions.

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THE COMMISSIONER: Miss McIntryre?

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MS. McINTRYRE: I will have a few
questions.

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THE COMMISSIONER: I think we will take

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20 minutes then.

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-- (SHORT RECESS)

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1 ---On resuming.

2 THE COMMISSIONER: Miss McIntyre?

3 MISS MCINTYRE: Thank you.

4 CROSS-EXAMINATION BY MISS MCINTYRE:

5 Q. Dr. Kauffman, my name is
6 Elizabeth McIntyre and I represent the Registered
7 Nurses Association of Ontario and various nurses.
8 Just a few questions.

9 Doctor, I am not clear, for purposes
10 of your March 14th letter you have mentioned a
11 3 cc syringe. Did you in fact assume a particular
12 dose of digoxin was given for the purposes of your
13 letter?

14 A. No, other than stating that
15 the dose would affect the ultimate concentration, I
16 didn't consider that because it was not strictly
17 pertinent to being responsive to the specific question
18 that was asked in terms of time.

19 Q. Okay. So I take it you
20 didn't assume there were 3 cc's of digoxin of any
21 particular concentration given?

22 A. Dose or volume was a
23 secondary consideration. I simply mentioned the
24 3 cc syringe because that was mentioned in the
25 testimony that was provided me.

Q. That is what I had thought

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EMT/cr



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2 from reading your letter but I just wanted to be
3 clear on that point.

4 You did, however, in your original
5 report do some calculations as to what you thought
6 the minimum dose required would have been, and you
7 had estimated the minimum dose at .556 milligrams?

8 A. Yes.

9 Q. And that was assuming, first
10 of all, that the dose had been given within an hour
11 of the time of death?

12 A. Roughly, yes. I think that
13 is consistent with my testimony.

14 Q. Yes. And that the injection
15 had been by way of a single IV administration that
16 would have been by bolus?

17 A. Yes.

18 Q. Is that correct?

19 A. Yes.

20 Q. I take it that if we go to
21 the scenario as set out in the letter of March 14th
22 where we are talking about administration of something
23 like three hours prior to time of death, that would
24 make a large difference in terms of minimum dose?

25 THE COMMISSIONER: Yes, Miss Cronk?

MS. CRONK: Sorry, to interrupt. I



Kauffman, cr.ex.
(McIntyre)

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should have perhaps interrupted a few moments ago
when Miss McIntyre put to the doctor that his prior
opinion had been based on administration within an
hour of death.

5

THE COMMISSIONER: Yes.

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MS. CRONK: You will recall that the
word death took on a meaning in the doctor's prior
evidence. His evidence was, and this is found, sir,
in a number of places, but particularly Volume 71,
page 5690 and 5691 that it was within an hour prior
to the onset of critical symptoms.

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THE COMMISSIONER: Yes.

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MS. CRONK: He defined that to mean
1:45 in the morning.

14

THE COMMISSIONER: Yes.

15

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MS. CRONK: You will recall that the
child was pronounced dead at 3:27 in the morning so
there is a significant time differential, and it is
clear that the doctor's prior opinion was based on
the 1:45 onset time as I understand his prior evidence.

19

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THE COMMISSIONER: Yes.

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MISS MCINTYRE: Yes. Well, I recall
reviewing that evidence as well, sir, but I was
relying on the doctor's report itself which I had
understood - page 6, it is an hour prior to the time

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of death.

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MS. CRONK: My friend is quite right.

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That is the language which appears in the report,

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but when Dr. Kauffman was asked both during his

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examination in chief and on a number of occasions

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during cross-examination to explain what he meant

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by that he was quite clear and I think consistently

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that he meant onset time and indeed if Miss McIntyre

10

would read on at page 6 of the report the doctor's

11

final conclusion with respect to Allana Miller, she

12

will see that he says in the last two sentences --

THE COMMISSIONER: 60 to 90 minutes.

13

MS. CRONK: 60 to 90 minutes of the

14

onset of critical symptoms.

THE COMMISSIONER: Well, Doctor, I

15

am sure you are enjoying very much everybody telling

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you what you meant by what you said, but could you

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help us out?

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THE WITNESS: Well, I apologize for

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creating this problem and it is because I am not a

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lawyer and I get careless with my verbiage sometimes.

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What I really meant was what was

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eventually pulled out of me in my testimony, and

23

that is I thought the dose must have been given some

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time within an hour, and I think I said maybe at

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Kauffman, cr.ex.
(McIntyre)

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an outside 90 minutes prior to the onset of critical
symptoms which I thought had their onset at 1:45 a.m.
on the 21st.

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I did carelessly refer I think once
or twice in my testimony to the onset of death and
I did express it both ways in my report. It was
simply carelessness on my part.

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MISS MCINTYRE: Q. If we take an hour
back it would be 12:45 I take it in your original
report?

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THE COMMISSIONER: An hour back, you
mean --

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MISS MCINTYRE: From 1:45.

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THE COMMISSIONER: 1:45 being the onset
of critical symptoms?

15

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MISS MCINTYRE: Yes. If you assume
that the dose was administered within an hour then
it would have been some time after 12:45.

17

18

A. A.M.

19

Q. A.M., yes.

20

A. Yes.

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Q. So for the purposes of this
scenario will you assume that the dose was administered
at 11:51 p.m.? There is approximately an hour's
difference.

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A. Well, I really don't think there is that much difference. Would it be possible to have - could I have permission to draw you a picture on a blackboard and explain to you why I say that?

Q. Certainly. Do we have a blackboard?

A. Well, let me do it verbally.

MS. CRONK: You can have it, Doctor.

THE WITNESS: Okay, it might be clearer if I can attempt to illustrate it for you. I don't really think there is that much difference. There is some difference but not as much as you are implying and I will show you why I say that.

MISS MCINTYRE: Q. That would be helpful.

MS. CRONK: I am afraid we are going to have to move a camera here.

THE WITNESS: Well, don't bother with that.

THE COMMISSIONER: Let's see if we can manage, gentlemen, without it.

THE WITNESS: Let me just explain it to you verbally.

MISS MCINTYRE: Q. Okay.



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2 A. If you will look at the
3 literature that I have provided, under the conditions
4 that were outlined to me and that I assumed there is
5 a lag time of approximately 70 minutes from the time
6 the dose is administered into the buretrol from the
7 time the first molecules of the drug reach the patient's
8 vein. That brings us up to rather than 12:45, to
around 1 o'clock.

9 That is when the dose first starts
10 reaching the patient. Then most of the dose,
11 approximately 80 to 85 per cent under those
12 conditions would infuse over the next 40 to 50 minutes.

13 So actually what we were saying
14 under the buretrol scenario is that the dose would
15 start at 1 o'clock and go into the patient, most
16 of it, by 1:45 to 1:50. If you want to talk about
17 a bolus being given at 12:45 into the IV tubing and
18 then it still takes minutes for it to run in,
19 depending on the IV conditions, we are maybe talking
20 about 20, 30 minutes difference time-wise at the
most between the two situations.

21 Q. Okay. To see if I under-
22 stand you, that was the second factor I was going to
23 ask you about is what difference it made to your
24 calculation of minimum dose as to the site of
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administration.

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Are you telling me that the two
cancel each other out, the fact that it was administered
into the buretrol would cancel out the delay in time?

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A. Well, the minimum dose was
estimated and I think I tried to make that clear,
was a somewhat unrealistic but absolute minimum that
I thought I could come up with under ideal but
probably unreal conditions, because at the time I
wrote that I was trying to communicate extreme
possibilities, and say that what really happened
was really somewhere in between. So the minimum dose
would occur under conditions that probably did not
really exist under - absolutely exist under either
situation.

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Q. Your minimum dose assumed
administration 60 to 90 minutes before the onset of
critical conditions and assumed that the injection
site was close to --

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A. Closer to the patient.

20

Q. Closer to the patient.

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A. And that the dose was
injected instantaneously and that no elimination
from the body occurred and that no distribution to
tissues occurred.



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Q. Okay. Now given the scenario that was presented to you in the letter from Miss Cronk and the changes in the assumptions, would the minimum dose remain the same in your opinion?

A. Well, it would --

Q. Or can you tell?

A. I guess I can try to answer that. The minimum dose, under the idealistic conditions that I outlined for calculating minimum dose wouldn't change, but it would be more unlikely for that minimum dose to have occurred or have been administered under the buretrol situation than under the so-called bolus situation.

In other words it probably took - would require a larger dose than a minimum dose for even the so-called bolus situation, and with a buretrol infusion because it infuses a little more or I should say infuses over a little longer period of time, would probably require a somewhat larger dose to produce an equivalent serum concentration at a point in time shortly after the dose.

Q. Okay. So it might be somewhat larger than --

A. Let me show you what happens and what I am saying.



1

2

Q. Okay.

3

A. (At the blackboard) If you

4

diagram the concentration of digoxin in serum with
time, after a dose is started --

5

6

THE COMMISSIONER: I wonder if we could
have the microphone twisted around.

7

8

THE WITNESS: If you diagram the
concentration of digoxin versus time if you infuse it
with a bolus rather rapidly you could get a
concentration of time curve something like this with
a peak concentration at a certain time and a
concentration of that amount.

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H/BM/LN

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2 If you infuse the same dose a little
3 more slowly you may get a curve like this so that
4 the concentration is a little lower and it curves a
5 little later but the full amount goes in the same.
6 So if we said this represents the buretrol situation
7 and this is the bolus situation, don't take the
8 absolutes, but the characteristics of the two serum
9 concentration curves would be something like this.

10 Now, what controls the absolute height
11 of these then is the quantity of the dose. So, if
12 you were going to approximate this concentration
13 with this infusion rate it would take a little larger
14 dose.

15 Q. I see. We know that the peak
16 time that we were told before was around 30 to 60
17 minutes, is that correct?

18 A. Well, no, because that depends
19 on the way it is infused if it was given intravenously.

20 Q. Well, if it is infused, your
21 first assumption, the higher curve, yes, that
22 would be 30 to 60 minutes as I understand it.

23 A. Well, not really. If you give
24 it as a rather rapid bolus or rapid infusion.

25 Q. Yes.

A. From down low in the intravenous



H2
1
2 line you would expect the peak concentration in the
3 serum to occur at the moment that that dose had
4 entered the vein and that could be, depending on the
5 rapidity of the injection, a few minutes.

6 Q. And when would you expect the
7 peak to occur if it was administered into the
8 buretrol?

9 A. Under the conditions
10 I outlined, assumptions I outlined in my report,
11 the peak would occur sometime during that 40 to 50
12 minutes that 85% of the dose was infused.

13 Q. Okay. Thank you very much
14 Doctor. I have no further questions.

15 THE COMMISSIONER: Thank you Miss
16 McIntyre. Mr. Olah?

17 CROSS-EXAMINATION BY MR. OLAH:

18 Q. Doctor, just one quick question
19 which may or may not be of assistance.

20 I want to show you a copy of Exhibit
21 103, which is the chart of Jordan Hines. At page
22 76 there is a medication order, or, I'm sorry, a
23 doctor's order. Would that indicate to us the
24 volume at which the buretrol or the IV line was
25 set or ordered at?

THE COMMISSIONER: Yes, Miss Cronk ?



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MS. CRONK: Sir, I'm in your hands and I know Mr. Tobias isn't on his feet, but it is quite clear to all Counsel I think and most certainly those that proceeded Mr. Olah that the Doctor's attendance today was to be restricted to his further opinion concerning Allana Miller.

MR. OLAH: It is. Oh, I'm sorry, it arises --

MS. CRONK: I'm sorry, I thought I heard the name Jordan Hines.

MR. OLAH: You did, but it arises from a matter that is in a fresh report and if I could clarify it would take two minutes.

THE COMMISSIONER: Well, we'll let him try.

MS. CRONK: I'm not even sure it was an objection, Mr. Olah.

THE COMMISSIONER: Well, all right.

MR. OLAH: I understand the guidance and it may not even come into play.

THE COMMISSIONER: Well, go ahead.

MR. OLAH: Doctor, can you indicate to us whether that is an order as to what rate the IV was to be infusing at?

A. Yes, it appears to be an order for a change in the intravenous rate.

Q. And that would be, what, at 16



1
2 millilitres per hour would it Doctor?

3 A. It looks to be 16 cc. which
4 would be equivalent to millilitres per hour.

5 Q. Which is very similar to the --

6 MR. TOBIAS: Perhaps Mr. Olah, could indicate,
7 are three orders on page 76.

8 MR. OLAH: It is the bottom one.

9 MR. TOBIAS: Thank you.

10 MR. OLAH: Q. Now, that would seem to
11 be - do you see any further orders as to IV infusion
12 rates?

13 THE COMMISSIONER: I am having some
14 trouble as to why this is relevant. Can you tell us
15 where you are going?

16 MR. OLAH: Simply, sir, the Doctor
17 indicated that if there was an infusion through
18 the buretrol the point I am going to make simply
19 is that it would take a certain amount of time
20 because we know the infusion rate in this case --

21 THE COMMISSIONER: And if the infusion
22 rate changes it would take up time?

23 MR. OLAH: Well, there is no order
24 changing the infusion rate and I'm simply going to
25 end up in two questions asking the Doctor what the
earliest possible time could have been given the



1
2 infusion rate in this case.

3 MS. CRONK: I'm sorry sir, now I have to
4 formally object. The Doctor has not been asked to
5 reconsider the case of Jordan Hines, nor to consider
6 the chart of Jordan Hines.

7 THE COMMISSIONER: Why do we have to
8 consider Jordan Hines?

9 MS. CRONK: And I give him full credit,
10 he is not suggesting there is any evidence that
11 the infusion rate or the IV flow rate in Allana Miller's
12 case is a known factor before us, indeed, it isn't.
13 On my understanding of the evidence on the record
14 unless there is some parallel I am missing between the
15 two cases I think it inappropriate that the
16 question be put to the witness.

17 THE COMMISSIONER: Could you not put a
18 hypothetical question, Mr. Olah. Why are we getting
19 into the Hines case, that's all, I don't understand
20 that.

21 MR. OLAH: All right. Well, I can get
22 to the issue this way very quickly.

23 Doctor, assuming there is an infusion
24 rate of 16 millilitres per hour do I take it that
25 if there is a bolus - I'm sorry, not a bolus but an
injection into the buretrol that it would take



H6

1
2 approximately two hours, the earliest time at
3 which a lethal concentration of digoxin could be
4 given with that infusion rate would be two hours, sir?

5 A. Well, there are two other variable
6 assumptions we need to make to answer that.

7 Q. Let's assume the same IV line.

8 A. The same setup I assumed in the
9 Miller case today?

10 Q. Right.

11 A. Then it would take approximately
12 two hours to infuse 85% of whatever the dose was.

13 Q. And as you pointed out in your
14 new report that is approximately when one would
15 expect to see the first symptoms of digoxin intoxic-

16 ation?
17 A. Well, there are other variables
18 that control the onset of the first symptoms but
19 you could see the first symptoms sometime during that
20 infusion period. There have been cases of known
21 intoxication where the first symptoms didn't show
22 up for several hours after the dose was known to have
23 been administered.

24 Q. But generally you would expect
25 to see --

A. You could expect to see the first



H7

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symptoms ~~some time~~ during the latter part of that
second hour.

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MR. OLAH: Thank you. Those are all

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the questions that I have, sir.

5

THE COMMISSIONER: Yes, all right.

6

Thank you. Mr. Labow?

7

MR. LABOW: No questions.

8

THE COMMISSIONER: Mr. Shinehoft?

9

MR. SHINEHOFT: Thank you.

10

CROSS-EXAMINATION BY MR. SHINEHOFT:

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Q. I should state at the outset

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Mr. Commissioner, the questions that I have of the
Doctor is not related to his evidence this morning.

13

I only wish --

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THE COMMISSIONER: That's what he was

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called for.

16

MR. SHINEHOFT: Yes, I know that and I

17

qualify that by saying that the Doctor has provided
me with some reports, some medical abstracts and all

18

I want to do is just have them introduced as Exhibits.

19

THE COMMISSIONER: All right, then

20

that's fine.

21

MR. SHINEHOFT: Doctor, the last time

22

you were here you gave some evidence I believe as

23

to the relationship between digoxin and potassium,

24

did you not?

25



H8

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A. That's correct.

3

Q. And upon my request of you,

4

Doctor, I believe that you were good enough to

5

forward to me four articles that talked about this

6

relationship, is that correct?

7

A. I think that was the subject.

8

Could I see the articles again, please.

9

Q. Yes. I am going to show them

10

to you.

11

A. I had in my mind they dealt

12

with some other issues also and I need to refresh

13

my memory because it's been a while since I sent

14

them to you.

15

Q. Yes.

16

A. Yes, these are articles, case

17

reports dealing with digitalis toxicity in children

18

and infants.

19

Q. Amongst other things they do

20

deal with the question of potassium and the

21

relationship of potassium to digoxin, is that not

22

correct, Doctor?

23

A. Yes.

24

MR. SHINEHOFT: Okay. I would like, if

25

I may Mr. Commissioner, to --

THE COMMISSIONER: We will put them all



H9

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in as one?

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MR. SHINEHOFT: Or we can put them in
as individual Exhibits.

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THE COMMISSIONER: No, I think we can
put them in collectively. At any rate I don't ask
you to vouch for all of these, but do they represent
so far as you know valid --

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THE WITNESS: I'm not sure that they
are different from reprints that may have already
been supplied.

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THE COMMISSIONER: No, but I mean I take
it you have read them?

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THE WITNESS: Yes, I have read them.

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THE COMMISSIONER: And you put some
faith in them?

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THE WITNESS: Yes. I think at the time
I sent them I was sending them not only with that
in mind, but also because they illustrated something
with regard to arrhythmias that can occur during
digitalis toxicity also.

20

21

MR. SHINEHOFT: Various types of
rhythms, depending on the heart abnormalities.

22

23

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A. Right and also I think some of
the cases may illustrate elevated potassiums in the
presence of digoxin and poisoning.



H10

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THE COMMISSIONER: We will put them

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all in as Exhibit 405.

4

MR. SHINEHOFT: If I may, Mr.

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Commissioner.

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---EXHIBIT NO. 405: Four case produced by Dr. Kauffman
re digitalis toxicity in children
and infants.

7

MR. SHINEHOFT: Those are all the

8

questions I have.

9

THE COMMISSIONER: Yes, all right.

10

Mr. Shanahan?

11

MR. SHANAHAN: No questions sir. Thank

12

you.

THE COMMISSIONER: Mr. Tobias?

13

MR. TOBIAS: No questions sir. Thank you.

14

THE COMMISSIONER: Miss Cronk?

15

MS. CRONK: Yes, thank you, sir.

16

REDIRECT EXAMINATION BY MS. CRONK

17

Q. Dr. Kauffman, just one or two

18

questions arising from the cross-examination of

19

Mr. Strathy and Ms. McIntyre. May I deal first with

20

the matter that arose during Ms. McIntyre's discussion

21

with you. It centers on the estimates that you have

22

outlined for infusion time. As I have understood

23

what you have said in your recent report no drug,

24

assuming that the dose of digoxin was administered

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into the buretrol sometime between 11:51 p.m. and
12 midnight, those are the two assumptions that you
were asked to work with. Do I have that correctly?

A. That's correct.



DM.jc

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Q. Assuming those --

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THE COMMISSIONER: 11:50 and 12

4

midnight.

5

MS. CRONK: 11:51 and 12 midnight, sir.

6

THE COMMISSIONER: All right, I am

7

not going to fight with you, but I think it is 11:50,

8

but when he addressed the question he put it at 11:51

9

and that is where we get the 11:51.

10

MS. CRONK: All right.

11

Q. Assuming then that time frame

12

for the dose, and assuming that method of admini-

13

stration of the dose, as I have understood what you

14

have said in your report, you would not expect based

15

on the known literature with which you are familiar

16

that any drug, any portion of that dose

17

would reach the child until the expiry of 72 minutes

18

after administration of the dose, do I have that

19

correctly?

A. Under the conditions I assumed,

that's correct.

20

Q. And under the conditions that

21

you assumed and with the assumptions that you made,

22

if the dose was given at 11:51 p.m., which is the

23

first time that you deal with in your report, that

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would mean as you have said in the report that the

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first time any molecule of that drug would reach the child would be about 3 minutes after 1 o'clock in the morning, do I have that correctly?

A. That's correct.

Q. And we know from the medical chart of the child and we have reviewed it again this morning, that Allana Miller's - the onset of Allana Miller's critical symptoms was at 1:45 in the morning?

A. That's correct.

Q. So that would mean that the very first opportunity from a pharmacological point of view that the drug would have to even reach the child would occur within one hour from the onset of the critical symptoms?

A. That's correct.

Q. As I read your report however, you have also said that you would not expect to see symptoms at the time of one hour, at 1:03 in the morning you would not expect to see symptoms then?

A. One hour after the buretrol injection I would not expect to see symptoms from digoxin had it been started at that time.

Q. But you have also said that within that next hour, that is from 1:03 in the



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morning until 2:03 in the morning 85 per cent of the drug in approximate terms would be infused into the child?

5

A. Yes.

6

7

Q. And it is somewhere during that extra hour, the second hour, that you would expect an effect to set in?

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A. You could expect it.

(2)

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Q. And the nature of the effect, and I suggest the timing of the effect, would depend on a number of variables, but certainly the amount of the dose involved?

13

A. That's correct.

14

15

Q. The nature of the child's condition, the physiology of the child and the illness state or the lack thereof of the child involved?

16

A. That's correct.

17

Q. And a number of other matters?

18

A. Yes.

19

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Q. So you are not suggesting then at any point, as I read your report, nor in your evidence here this morning, that there would not be any effect until two hours after administration, but rather that you might see an effect at any time within that second hour, and you can't predict with



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any degree of certainty when the effect might take place, might manifest itself?

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A. I think that is correct. If the effect was going to show up during that period of time before the critical symptoms started, I would expect to see it during the latter part of the time period during which the 85 per cent of the drug was infusing, actually infusing into the patient.

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Q. Could we deal with that, Doctor, because under that scenario the very first time that any portion of the drug would reach Allana Miller would be one or two minutes after 1 o'clock in the morning. We know that some 45 minutes later that clinically symptoms are recorded in the medical chart as having been observed. Is that time frame, that is 42 to 45 minutes after the first portion of the drug had reached the child, one that you have any difficulty with given the assumptions that you have made and the conditions that you have set out in your letter?

20

21

A. No. As I said in my letter I thought it fit reasonably well.

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Q. Dealing with another aspect of the same scenario, that is the infusion time, that would mean that the effect of the drug would be



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starting to take place, there would be an effect of the drug as you have said within one hour of the time of onset of critical symptoms, because it is happening, at least starting to happen and the potential is there shortly, some time after 1 o'clock?

A. Yes.

Q. Within that 45-minute time frame.

My question to you is this, if that is the case, bearing in mind what your prior opinion was under a different scenario for a different administration of the drug, are we not talking then essentially equal opportunity for the drug to both achieve a concentration in the serum and as well to reach the tissues of the child?

A. I don't think I could say it is absolutely equal, but I don't think the difference is nearly as large as people may have assumed, for the reasons that you have just outlined. I think that the time to infuse the dose after it actually starts going into the patients with the buretrol scenario is a little longer than if it was placed in the lower half of the IV tubing for example.

Q. Yes.

A. But it wouldn't be more than 15 to 30 minutes, I wouldn't think, difference.



I.6

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Q. And do I have it correctly
that that is the point that you were making with
Ms. McIntyre?

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A. Yes.

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Q. You mentioned as well early
this morning that if, and I think this was during the
cross-examination of Mr. Roland, it might have been
Mr. Strathy, that if the tissue levels, the
concentration found in Allana Miller's tissues had
been fresh tissues that would cause you enormous
problems from a pharmacological point of view in
assessing this case, do I have that correctly?

13

14

15

A. Concentrations of 5 to 7 micro-
grams per gram in fresh tissue would be essentially
inexplicable to me in trying to fit them into the rest
of the data that I have.

16

17

MR. STRATHY: He said micrograms, do
you mean nanograms?

18

THE WITNESS: I am sorry, nanograms.

19

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MS. CRONK: Q. I take it, Doctor, that
that would be so if the dose had been administered
through the buretrol?

21

22

A. Yes.

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Q. And am I correct that that would
be equally so if the dose had been administered by a



I.7

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large IV bolus into the distal tubing of the IV line?

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A. If it was administered several

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centimetres above the vein in the IV line, yes, I

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would agree with you it would still be a problem. If

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it was given as a sudden bolus directly into the

7

vein and the baby died within minutes after that bolus,

8

then, I mean actually died, not critical, but died,

9

then the minimum dose calculation probably would

10

apply and I would not have that much trouble with the

11

low concentrations. But under realistic conditions

12

I don't think those concentrations in fresh tissue

would be consistent with either dose in the scenario.

13

Q. As you pointed out this morning,

14

and indeed as you pointed out in your prior

15

evidence, in your judgment you cannot treat the

16

concentration in the tissue levels of this child, and

17

by that I mean the myocardium levels, because we know

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there was none in the lungs as being representative

19

of any certainty in a quantitative sense as to the

amount of digoxin that was actually there?

20

A. Yes, I agree with that.

21

Q. One final matter. You were

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asked by Mr. Strathy to set aside, for the purposes of

23

his discussion with you, the assumptions that you

24

had been asked to make in preparing and delivering

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I.8

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A. Yes.

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Q. I ask you to do the opposite.

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your report, your further report in this matter. You were asked to set aside the assumption that the drug was given between 11:50 and 12 midnight and to ignore, if you will, the assumption that the drug was administered into the buretrol, do you recall that?

That is to consider them again as you did when you were preparing your report, and make the assumption as to the time of administration and as to the mode of administration of the drug. Given your discussions this morning on those assumptions, if the drug had been given in that way, and at that time, is it your opinion that it is consistent - perhaps I will just finish the question, is it your opinion that it is consistent both with the post mortem serum levels in this child and with the tissue concentrations in fact recorded?

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21

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MR. STRATHY: Mr. Commissioner, even in Royal Commissions I had always understood re-examination should be confined to re-examination. In effect what Miss Cronk is doing is restating to the witness what she asked him, or should have asked him in chief and what he said in his report.

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THE COMMISSIONER: What he said in his



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report I think, I don't think there is much question about the answer to this, the only problem is about with respect to the tissue.

MR. STRATHY: That's correct.

MS. CRONK: Well, to respond to my friend, he suggests that it isn't proper re-examination.

THE COMMISSIONER: Well I am going to allow it in any event. I note Mr. Strathy's point, that is really what he says in the report I think, is it not, is that not what you have been saying?

THE WITNESS: If I understand the question I think I have responded to that at least to some degree in the report.

THE COMMISSIONER: Yes.

MS. CRONK: I think the Commissioner's point and perhaps that of Mr. Strathy's was perhaps the main thrust of the report. I will leave it there, sir.

THE COMMISSIONER: Yes, all right.

MS. CRONK: Thank you very much. Even some lawyers bow to objections, Doctor.

THE COMMISSIONER: Sometimes we can do things a little faster.

THE WITNESS: I appreciate your consideration.



I.10

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THE COMMISSIONER: Thank you.

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MS. CRONK: Mr. Commissioner, I understand our next witness is here. Could I ask for five minutes and then we will commence with her evidence?

6

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THE COMMISSIONER: If you wanted to we could perhaps break off and come back at 2 o'clock.

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MS. CRONK: Excuse me just for a moment, Mr. Commissioner. Sir, it doesn't matter, I would be inclined to start now in the hope that we can finish her today, unless you are suggesting that we take our lunch break now and return early?

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THE COMMISSIONER: That is what I meant, return earlier. You see, if we take 10 minutes you are going to take half an hour. We could even come back at a quarter to one. I know people have made arrangements about lunch, that is the problem, and if we try to change that - so we will give you five minutes. Five, five minutes and then we will start again.

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MS. CRONK: Thank you very much, Mr. Commissioner.

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--- Short recess.



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EMT/hr

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--- Upon resuming

THE COMMISSIONER: Yes, Ms. Cronk?

MS. CRONK: Thank you, sir.

Our next witness is Ms. Gloria Bucci.

GLORIA BUCCI, Sworn

DIRECT EXAMINATION BY MS. CRONK:

Q. Ms. Bucci, as I understand it
you received your high school education here in
Toronto, and in 1976 you enrolled at George Brown
College also in Toronto for a diploma nursing course?

A. That is right.

Q. Is that correct?

A. Yes.

Q. Did you receive your diploma in
nursing two years later, 1978?

A. That is correct.

Q. After graduation did you accept then
a position as staff nurse at Toronto General Hospital?

A. Correct.

Q. Can you tell me what division
or service you were associated with?

A. I worked on the 7th floor, the
University Wing, on the oncology unit.

Q. For lay persons who perhaps don't
have the same degree of familiarity is that with



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cancer patients?

3

A. Cancer, yes.

4

Q. And as I understand it you

5

subsequently left Toronto General Hospital in April,

6

1980 and joined the staff of the Hospital for Sick

7

Children. Is that correct?

7

A. That is right.

8

Q. And at that time, that is April,

9

1980 were you signed immediately to the cardiac

10

wards?

11

A. That is right.

12

Q. And to which ward specifically

13

were you assigned?

14

A. To ward 4A, cardiology.

15

Q. At the time of joining the Hospital

16

for Sick Children then as I understand your background

17

you had had two years' experience as a graduate

18

Registered Nurse?

19

A. That is right.

20

Q. You had had, however, no experience
either in cardiology or more particularly in

21

Pediatric Cardiology?

22

A. That is right.

23

Q. When you started on ward 4A were
you assigned to a particular team?

24

25



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A. At the time I worked with Cathy Harrington's team, and as she left Marie Mandal was the team leader.

5

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Q. As you are probably aware this Commission is concerned with the time frame from June 30, 1980 through to the end of March 1981, some nine months?

8

9

10

11

A. Yes.

Q. For the better part of that nine month period were you associated with Ms. Mandal's team?

12

13

14

A. Right.

Q. Did you remain employed as the Staff Registered Nurse on ward 4A after the end of March 1981?

15

16

THE COMMISSIONER: It just occurs to me, isn't this witness for Stephanie Lombardo?

17

18

MS. CRONK: Yes, sir, you are quite right. I hadn't noted Mr. Shanahan's absence.

19

20

MR. TOBIAS: Sir, I will see if I can find him.

21

22

THE COMMISSIONER: Yes, see if you can find him. It would seem to me that we have gone to a great deal of effort and he is not even here.

23

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MS. CRONK: Sorry, sir, I didn't notice



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that.

THE COMMISSIONER: The Provincial Court
may have called.

MS. CRONK: Perhaps we will just
take a moment.

THE COMMISSIONER: Yes. All right.

MS. CRONK: Thank you, sir.

Less than a moment.

Q. Ms. Bucci, we were just in the
course of reviewing your employment history if you
will, with the Hospital for Sick Children and your
educational background. My question - let me back
up - throughout the period June 1980 through to the
end of March 1981, did you remain employed as a Staff
Registered Nurse on Cardiac Ward 4A?

A. Yes, I did. I completed my
employment there in mid April.

Q. Of which year?

A. '81.

Q. All right. And in mid April of
1981 did you take other employment elsewhere?

A. No. I started work at Etobicoke
General in June, 1981.

Q. So the period of some month and
a half you vacationed?



J5

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A. Yes.

3

Q. Then started work at Etobicoke

4

General?

5

A. Yes.

6

Q. And are you still employed at

Etobicoke General Hospital?

7

A. Yes, I am.

8

Q. In what division or service are

9

you associated with at that hospital?

10

A. I work in the nursery there.

11

Q. You are working with infants?

12

A. Right.

13

Q. Ms. Bucci, you are married?

14

A. Yes.

15

Q. When did you marry?

16

A. In May of 1981.

17

Q. Prior to that time what was your

maiden name?

18

A. Ganassin.

19

Q. Could you spell that for us?

20

A. G-a-n-a-s-s-i-n.

21

Q. Ms. Bucci, as I understand it,

you worked the long night shift on December 22nd, 1980

22

on ward 4A the night that a child by the name of

23

Stephanie Lombardo died? Is that correct?

24

25



J6

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A. That is right.

Q. Could I show you please, Exhibit 32C
Mr. Registrar?

Ms. Bucci, this volume contains the
assignment books from wards 4A and 4B. I would ask
you to turn to tab 87, page 178. I think it is the
very last page.

A. Yes.

Q. These are the nursing assignments
for ward 4A, Ms. Bucci, for the night of December 22nd,
and as you have indicated you are recorded as having
worked the long night shift that night. That is at
the bottom right hand side of the page?

A. That is right.

Q. And as I read it you were assigned
to two patients in room 418 and to four patients in
room 425, having six patients in all?

A. Right.

Q. Mrs. Trayner was also working
the long night shift as the nurse in charge. She had
two patients, one in room 423 and one in 426. Is
that correct?

A. That is right.

Q. And Ms. Cooney was also working
but she was posted as a relief nurse to ward 4B that



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night?

A. That is right.

Q. Was Ms. Cooney normally a member of the team on which you worked?

A. Yes.

Q. Was she a Registered Nurse or a Registered Nursing Assistant?

A. She is a Nursing Assistant.

Q. Before we come to the ward 4B nursing assignments that night, Ms. Bucci, it would appear and I am asking you to tell me if I am wrong, that ward 4A on that particular night shift was covered virtually - well, in its entirety - by Mrs. Trayner and yourself as two Registered Nurses on duty?

A. That is correct.

Q. And the total ward census that night was some eight patients?

A. Right.

Q. And only two patients were in room 418. I suggest that one of them was Stephanie Lombardo assigned to your care?

A. Right.

Q. We know, Ms. Bucci, that this was a time approaching Christmas but we have heard in



J8

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2

evidence that the two wards had not yet been merged.

3

That didn't take place until I believe it was two

4

days later. So on December 22nd we have a situation

5

do we not, where there was what we might describe as

6

a skeleton nursing staff?

7

A. Yes.

8

Q. Only Mrs. Trayner and yourself on
ward 4A?

9

A. That's right.

10

Q. As well a comparatively speaking
minimal amount of children, a total ward population
of eight that night?

12

A. That's right.

13

Q. Is that fewer than you would
normally expect to find?

14

15

A. Yes, it is.

16

Q. Can you help me as to why that
would be the case?

17

18

A. It was Christmas and we sent our
better patients home. Did not admit as many during
that time as well.

19

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Q. So admissions where possible were
deferred and children that were well enough to be
sent home for the holiday period were in fact sent
home?

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A. True.

Q. We know that Stephanie Lombardo was not assigned to constant nursing care or shared nursing care that night, or at least that has been the evidence to date, Ms. Bucci, and judging from the number of patients to whom you were in fact assigned I take it that that accords with your recollection as well?

A. That is right.

Q. All right. Mrs. Trayner had two patients as we have noted in two different rooms that evening. To the best of your recollection and knowledge were either of those patients on shared nursing care?

A. I don't think so.

Q. All right.

THE COMMISSIONER: I think we have established that shared nursing, the two babies have to be in the same room.

MS. CRONK: You are quite right, sir, yes.

THE COMMISSIONER: I don't know, but now we have another - is that right?

THE WITNESS: That is right.

THE COMMISSIONER: Do you agree with



J10

EMT/hr

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that?

3

THE WITNESS: Yes.

4

MS. CRONK: Thank you, sir.

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Q. How would you describe, bearing in mind all of those circumstances, Ms. Bucci, the level of activity in nursing terms on the ward that night?

8

9

A. It was very slow. It was a quiet night.

10

11

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Q. You had six children in total. Leaving aside for the moment Stephanie Lombardo who was one of the two in 418, do you recall now whether any of your five other patients required any special or enhanced level of nursing care that night?

15

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A. I don't recall the patients I had in 425, but if I had more to do for them I think I would remember more. I don't recall going down to that end of the floor at all so then - I wasn't busy with them.

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Q. That is your recollection?

A. Yes.

Q. And we know you had another patient in 418. Do you recall what the condition of that child was in terms of the gravity of the child's illness?

A. No, I don't remember.



J11

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Q. All right. We don't have available to us the Ward 4B assignment book for the same period, Ms. Bucci, but we do have the ward 4B WIN sheets which record the nurses assigned to work that night.

A. Yes.

Q. Could we have Exhibit 334B please?

THE COMMISSIONER: 334B?

MS. CRONK: Yes, B, sir, you will recall is the set of WIN sheets that has a set of entries on the back as well as the front.

THE COMMISSIONER: You don't mean 334A by any chance?

MS. CRONK: Sorry, thank you.

Q. Could I ask you to look at the night of December 22nd, Ms. Bucci? The dates are on the top right hand corner. You don't need this one.

A. Thank you.

Q. If you look down the WIN sheet on the left hand side of the page, Ms. Bucci, we see the names of the various nursing personnel who were assigned to work on ward 4B during that week, and I am of course specifically interested in the night of



J12

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December 22nd.

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As I read the WIN sheets, Ms. Karen Power was assigned to work the long night shift in 4B.

6

A. That's right.

7

8

Q. Meredith Frise, Registered Nursing Assistant, was also assigned to work the long night shift?

9

10

A. That is right.

11

Q. As well was a Mr. Rudanycz?

12

A. Correct.

13

Q. And we have heard that he is a Registered Nurse?

14

A. Yes.

15

16

Q. And then finally we have seen from the Ward 4A assignment book that Mary Cooney from ward 4A was relieving on ward 4B?

17

A. That's right.

18

19

20

Q. And if we turn to the back of this sheet we see there the second entry down Miss Cooney's name appears as relief nurse from ward 4A for December 22nd?

21

22

A. That is right.

23

24

Q. Do you recall any other nurse or Registered Nursing Assistant being on duty on either

25



J13

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of those two wards at any point during that long
night shift?

A. No, I don't remember.

Q. At any point during that shift
from the time that you arrived, Ms. Bucci, until the
time that you went home did you see Susan Nelles
on either of those two wards?

A. No, I didn't see her.

Q. Was there a ward clerk working
that night on either ward, 4A or 4B?

A. I don't recall.

Q. Could we have Exhibit 335A, please,
Mr. Registrar? These are the WIN sheets, Ms. Bucci,
for ward 4A, and I would ask you to turn to December
22nd



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BB/cr

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If you would please could you look to the second and the third names which appear on the left-hand column. Can you tell me, was Mrs. Mooney a ward clerk?

A. Yes, she was.

Q. And according to this WIN sheet was she working the long night shift or the evening shift on December 22nd?

A. No, she wasn't, she was working days.

Q. All right. And the day shift would have ended earlier in the afternoon at approximately 3 o'clock?

A. Right.

Q. And Ms. Fernandez, was she as well a ward clerk?

A. Yes, she was.

Q. And am I fair in suggesting that it appears that she worked the evening shift that night on Ward 4A?

A. That's correct.

Q. What were the hours of the evening shift as you understood them?

A. I can't remember when they came on and completed the shift.



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Q. If I suggested to you it was from 3 o'clock in the afternoon until 11 o'clock in the evening does that assist you in recalling the hours of the evening shift or do you know one way or the other?

A. Approximately. I thought it would be 10 o'clock in the evening but I am not sure.

THE COMMISSIONER: Do the comments mean anything, Miss Cronk.

MS. CRONK: Which comments, sir?

THE COMMISSIONER: Well, after Miss Fernandez they have a 1400 to 2145, would that mean anything?

MS. CRONK: Can you help me with that?

A. I don't know.

Q. All right. It may well be that they reflect the hours that she actually worked that day?

A. Yes.

Q. Thank you. Do you recall Mrs. Bucci testifying at the preliminary hearing involving Susan Nelles concerning the events of the long night shift on December 22nd the night that Stephanie Lombardo died. Do you recall testifying



1

2

at the preliminary hearing about that?

3

A. In what respect?

4

Q. Generally about the night
of December 22nd.

5

THE COMMISSIONER: Were you there?

6

THE WITNESS: Oh, yes, yes.

7

MS. CRONK: Q. Well, you were there
at the preliminary hearing?

9

A. Okay, yes.

10

Q. Were you asked questions
about the night that Stephanie Lombardo died?

11

A. Yes.

12

Q. Do you recall testifying and
giving evidence at that time?

13

14

A. Yes.

15

Q. All right. Have you had an
opportunity recently, Mrs. Bucci, to review the
transcript of your evidence at the preliminary hearing
on April 8th to your evidence concerning Stephanie
Lombardo?

16

17

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19

A. Yes, I have.

20

Q. And on the basis of that
review are there any matters reflected in the transcript
of your evidence that you wish to expand upon,
correct or clarify in any way with respect to your

21

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evidence concerning Stephanie Lombardo?

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A. Yes, there are a few points

4

I would like to clear up.

5

Q. You are referring I take it

6

to Volume 27?

7

A. Right.

8

Q. The evidence from the

preliminary hearing?

9

A. Right.

10

Q. Could you perhaps identify

11

for us the first matter that you wish to clear up,

12

I think you said.

13

A. Yes. The first one is on

page 62 which we have already gone over this morning.

14

Q. I am sorry, page 62.

15

A. Page 62.

16

Q. All right.

17

A. At the bottom of the page,

18

line 23, I am asked how many patients I looked after

19

that night. I said three but in fact I did take care

20

of six, according to the assignment sheets.

21

Q. Well, at the time that you

22

testified at the preliminary hearing and gave that

23

answer to that question did you have the assignment

24

book for Ward 4A in front of you?

25



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A. I don't recall having that,
no.

3

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Q. What's the next area?

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11

A. The next is page 66 towards
the bottom of the page again, line 22/23 I am asked
if I recall making up the heparin syringe and who
I would have done that with. I don't recall if it
was for doing the heparin or having my digoxins
counter-witnessed but I did have Phyllis in the
room, in the medication room with me once that night
but for what reason I don't remember.

12

13

Q. All right. Could we stop
there for a moment. You said you don't recall whether
it was for making up the heparin syringe or --

14

15

16

17

A. Or having my digoxin witnessed.

Q. By that you mean the drawing
up of the digoxin that you were to give to your
patients?

18

19

A. That's right.
Q. All right. Perhaps we will
come back to that.

20

21

22

A. Okay.
Q. Can you identify the third
area for us?

23

24

25

A. On page 69?



1

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Q. Yes.

3

A. At the top of the page I

4

am asked how much I fed Stephanie Lombardo and how often. I said I fed her an ounce every three hours.

5

I think I referred to the order when I said that.

6

My charting states that I fed her an ounce and a half

7

to two ounces every three hours. Now, I am not sure

8

how much of the feed she actually did take with each

9

feed.

10

Q. She may have taken more than

11

the ounce required?

12

A. Right, but the order does

13

state that it could be increased as tolerated, the amount.

14

Q. All right, and we will come

15

to that in due course as well.

16

A. All right. And then again

17

on page 71 referring to feeds again I charted on

18

two feeds, 9 o'clock and midnight feeds. I don't

19

think I recorded the 3 o'clock feed.

20

Q. By recording, you mean in

21

the medical chart of the child?

22

A. In the progress notes, yes.

23

Q. Okay, and we will come to that

24

too. Are you saying then that there were in fact

25



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three feedings: one at 9 o'clock, one at midnight

3

and one at 3:00?

4

A. That's right.

5

Q. All right, we will return to

6

that.

7

A. Okay. And then the last one

8

is on page 73, line 23 or 24. I am asked why Phyllis

9

would have taken an apex on Baby Lombardo and I said

10

I had no idea. She could have taken that apex because

11

one of the first things we automatically do is take

12

an apex or listen to a baby's heart rate if we see

13

a child in distress. So, that could possibly be

the reason for her doing that.

14

Q. All right.

15

A. And that's it.

16

Q. Thank you, Ms. Bucci and

17

we will come back as I have said to the matters that

18

you have raised concerning the feedings of Stephanie

19

as well as concerning the occasion when both you and

Mrs. Trayner were in the medication room.

20

A. Yes.

21

Q. Do you recall I asked you

22

a few moments ago whether or not you remembered the

23

condition of the other patient that you were assigned

24

in Room 418 that night. Do you remember me asking

25



1

2

you that?

3

A. Yes.

4

Q. And you told me I think that
you couldn't remember?

5

A. That's right.

6

Q. Could I ask you if you would
please to turn to page 90 of the same volume of your
evidence. Do you have that?

8

9

A. Yes.

10

Q. And starting at about line
6 you were asked this question:

11

"Q. I take it neither of the babies
that you were looking after in Room
418 were particularly ill, is that
right?

14

15

A. That's right."

16

Do you recall being asked that
question and giving that answer?

17

18

A. Yes.

19

Q. Does that assist you in any
way in recalling the condition of the child?

20

A. I say that only because I
don't remember anyone being particularly ill that
night so, I would assume that she was doing well.

22

23

Q. And by she are you referring

24

25



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to --

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A. He or she, I don't know.

4

Q. The other patient in 418,

5

not Stephanie Lombardo?

6

A. That's right.

7

Q. Do I take it then of all

8

the patients that you had that night you do not

9

remember any, including Stephanie Lombardo, as being particularly ill?

10

A. That's correct.

11

Q. All right. Well, I asked

12

you a few moments ago in describing the condition

13

of your other patients to leave aside Stephanie Lombardo.

14

A. Yes.

15

Q. I would ask you now specifically

16

to think about that child. We know from the medical

17

chart, Ms. Bucci, that she was transferred to Ward

18

4A from the Intensive Care Unit at approximately

19

11:15 in the morning on the day shift on December

20

22nd. Prior to coming on duty on Ward 4A that night

21

had you ever before seen Stephanie Lombardo?

22

A. No, I hadn't.

23

Q. All right. What was her

24

clinical condition in your judgment when you first

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observed her at the start of that long night shift?

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A. As I say, being a transfer from the ICU she was doing fairly well. She did not require a lot of nursing care, and I am just comparing her to other babies I would have received from the ICU. She had an IV but only on the heparin, she was not on oxygen, she had no breathing difficulties and she was feeding eagerly, as I stated, which was good for a post surgical patient.

Q. In light of what you observed when you first saw her did you have any particular concerns about her condition?

A. No, I had not.

Q. Did you have any concerns that she might be in any imminent difficulty that night?

A. No, I didn't.

Q. All right. Now, you had a number of patients as we know that evening. Is it fair to suggest in light simply of the number of patients that you had in the two rooms in which you were located that you would have of necessity been in and out of Room 418 frequently during the course of that long night shift?

A. No, I would not have been



1

2

in and out frequently.

3

4

5

Q. All right. Can you help me please, where did you spend the majority of your time during that long night shift, or do you recall?

6

A. I don't recall where I spent it.

7

8

9

Q. Well, we know that you had four patients in another room and you had two in 418, Stephanie Lombardo being one.

10

A. Yes.

11

12

13

Q. I take it that your duties with respect to both patients in 418 would have required you from time to time to be in that room during the course of that 12 hour long night shift?

14

A. That's correct.

15

16

17

18

Q. That doesn't pertain simply to Stephanie Lombardo, you would have had to feed the other child, take the other child's vital signs as required or as ordered?

19

A. That's right.

20

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Q. When I suggest to you, perhaps I put it ambiguously, that you would have been in and out of Room 418 frequently I meant by that that you would have had reason, because of your duties, to be in and out of that room at various times during the



1

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course of that shift?

3

A. Right.

4

Q. Is that right?

5

A. Yes.

6

Q. All right. And the converse

7

of that, you had four patients in another room,

8

Room 425 and would your duties in respect of those

9

patients have required you to have been in Room

425 frequently during the course of the night?

10

A. Yes.

11

Q. All right. We have heard in

12

prior evidence from other witnesses, Ms. Bucci, that

13

the patients normally assigned to Room 425 were

toddlers. Does that accord with your recollection?

14

A. Right.

15

Q. Not infants?

16

A. No.

17

Q. All right. And I take it

18

then that unless there was anything of particular

19

concern in the condition of any of the four children

20

that you had in Room 425 they might very well have

21

been sleeping for large portions of that 12 hour
night shift?

22

A. That's right.

23

Q. All right. Similarly,

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although we don't have the full information before us with respect to when they were to be fed, was there any general procedure in place as to when children of the age of two or three or older were to be fed during the course of a long night shift?

7

A. No.

8

Q. So, that would vary according to the condition of the child?

9

A. That's right.

10

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Q. And you might be required in the middle of the night or after midnight a number of times to be in that room either for feeding or to take the vital signs of those patients?

14

A. That's correct.

15

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Q. All right. Prior to 3:30 a.m. on the night - actually in the morning of December 21st, Ms. Bucci, did you observe any change in the condition of Stephanie Lombardo from that which you had observed when you first saw her?

19

A. No, I hadn't seen anything.

20

21

Q. And I take it you had seen the child a number of times prior to 3:30 in the morning?

22

A. Yes.

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Q. All right. At any point prior



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to 3:30 in the morning, Ms. Bucci, did you observe
anything which led you to conclude that the child
had been transferred to Ward 4A too early from the
Intensive Care Unit?

A. No.

- - - - -



DM.jc

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Q At any point prior to 3:30 in the morning, Miss Bucci, did you observe anything which you regarded as unusual in her condition, or alarming in any way?

A No, I didn't.

Q And finally, prior to 3:30 in the morning of December 21st, did you observe or learn anything that caused you to believe that she was now in difficulty or at imminent risk?

A No.

Q Is it fair to say that you were not unduly concerned about her condition or her progress at all prior to 3:30 in the morning?

A That's correct.

Q I would like to take you back to the matters that you raised a few moments ago concerning the feeding of this child. Perhaps the best way to deal with it is to refer you to your exact evidence at the preliminary hearing. Do you still have Volume 27 there?

A Yes.

Q We will start at page 68, and I would ask you to look at approximately line 20, Miss Bucci, page 68, and the following questions were put to you and the following answers are recorded as



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having been given:

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"Q. How often was this baby being fed?

4

"A. Every three hours.

5

"Q. You came on at 7:30, when would
her first feeding be after you arrived?

6

"A. 9 o'clock.

7

"Q. 9 o'clock, did you feed her at
9 o'clock?

8

"A. Yes.

10

"Q. What did you feed her?

11

"A. SMA.

12

"Q. SMA?

13

"A. SMA 27.

14

"Q. SMA 27 formula?

15

"A. Yes.

16

"Q. How much of that would you give
her at 9 o'clock?

17

"A. I think the order says an ounce
every three hours.

18

19

"Q. You can check Exhibit 80, Miss
Bucci, if you would like to be sure
of that."

20

21

At that point the reporter records you
looked at the medical chart, Exhibit 80.

22

23

"A. Yes, that's right an ounce every
three hours.

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L.3

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"Q. One ounce of formula every three hours?

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"A. Mm-hmm.

5

"Q. Where would that formula be stored?

6

"A. This particular one would have been in the refrigerator in our pantry.

7

8

"Q. It would have been in the refrigerator in the pantry. On Exhibit 3 is this the pantry you are referring to, Room 416?

10

11

"A. Yes.

12

13

"Q. Why would that particular formula be in that room rather than in the cart holding room where the other formulas are kept?

14

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16

"A. SMA 27 is a special constitutional formula, it has got increased calories and milk in it, it is mixed in the kitchen and daily is brought up to our floor and we use that for these kids."

17

18

19

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Can we stop there for a moment. Do you recall being asked those questions and giving those answers?

21

22

A. Yes.

23

Q. I take it then it was your

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evidence that you fed the child the very first time
that night at 9 o'clock, and that you fed her
approximately 1 ounce of SMA 27 formula?

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THE COMMISSIONER: I think she
corrected that.

6

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MS. CRONK: Q. I am sorry, 1-1/2 to 2
ounces?

8

A. Right.

9

Q. Of SMA 27?

10

A. Right.

11

Q. According to your evidence she
was due then to be fed again three hours later, 12
midnight, and again three hours later at 3 o'clock
in the morning?

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A. That's right.

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Q. Would you turn then to page 70,
the next page if you would.

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MR. YOUNG: Excuse me, Miss Cronk, just
to be clear. I have recorded now that she corrected
it to say that she said 1 to 1-1/2 ounces every three
hours, I thought I would mention I had 1-1/2 to 2.

21

THE COMMISSIONER: Well I have 1-1/2 to
2, we will just ask her which it would be.

22

MR. YOUNG: Thank you.

23

THE WITNESS: 1-1/2 to 2.

24

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L.5

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Miss Bucci.

4

A. Yes.

5

Q. At this time I would ask you to

6

look at approximately line 26:

7

"Q. How did the baby take the formula
at 9 o'clock?

8

"A. I fed her by mouth.

9

"Q. Yes.

10

"A. I remember her she was doing well

11

and she fed well.

12

"Q. Yes.

13

"A. There was no problem giving it
to her.

14

"Q. So she drank the whole ounce, did
she?

15

16

"A. Mmm-hmm."

17

Now stopping there for a moment, is

18

it your recollection today as well that Stephanie

19

Lombardo took that feeding at 9 o'clock without any

20

difficulty?

21

A. Yes.

22

Q. And do you have a recollection

23

one way or the other as to the amount of formula that

24

she took at 9 o'clock?

25



L.6

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A. No, I don't.

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Q. When you say then you think it could have been 1-1/2 to 2 ounces, are you referring generally to the feedings during the course of that long night shift, or do you have a recollection that that is what she took at a particular feeding?

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A. I don't think it was a particular feeding, it was generally.

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Q. Can we continue on page 71, please:

"Q. That was at 9 o'clock, when would you have fed her again?

"A. At midnight.

"Q. At midnight. Did you follow the same procedure at midnight?

"A. I don't recall, probably.

"Q. Again would Exhibit 80 assist you, would you have a record there of the feedings the baby had?

"A. Yes, she had another feeding and took it well.

"Q. She had another feed and took it well, that is your writing is it?

"A. Yeah.

"Q. When would you have fed her again after midnight?



L.7

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"A. At 3 o'clock.

3

"Q. At 3 o'clock in the morning?

4

"A. Hmmm.

5

"Q. Again check Exhibit 80 if you wish. How did she take that?

6

"A. She took that well.

7

8

"Q. Again did you follow the same procedure at 3 o'clock in the morning getting the bottle out of the pantry?

9

10

"A. Most likely, I couldn't tell you for sure."

11

12

Stopping there then, is it your recollection today as well, Ms. Bucci, that you personally fed the child Stephanie Lombardo again at 12 midnight and 3 o'clock in the morning?

13

14

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A. I don't remember the midnight feed, I recall the 3 o'clock feed.

16

17

Q. In light of your evidence at the preliminary hearing and in light of the order which you noted in your early evidence at the preliminary hearing that she was being fed every three hours, do you have any reason or basis upon which to believe that she was not fed at 12 midnight?

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A. No, I don't.

23

Q. Did you at any point that night

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L.8

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observe anyone other than yourself feeding Stephanie Lombardo anything?

3

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A. No.

5

6

Q. I take it then that the two feedings that you do specifically recall were those that were performed by you at 9 o'clock and at 3 o'clock in the morning?

7

8

A. That's right.

9

10

Q. And on neither occasion did she have any difficulty in taking her feeds at all, indeed as you have suggested she took it well?

11

12

A. That's right.

13

14

Q. Could we turn now to the medical chart, Exhibit 78, Mr. Registrar? Could I ask you first, Ms. Bucci, to turn to page 90 if you would. Do you have that?

15

16

A. Yes.

17

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Q. I direct your attention to the second doctor's order which appears on that page, and it appears to order the amount of formula or fluid that this child was to receive, do you see that?

19

20

A. Yes.

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Q. And it reads, and please correct me if I am wrong:

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"SMA 27, 30MLQ ... "

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L.9

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meaning every three hours:

3

" ... (100ML/KG per day)"

4

Is that correct?

5

A. That's right.

6

Q. And then I have difficulty

7

reading the language which appears beside it, is that
"to ad lib"?

8

A. That's right.

9

Q. Is that what you meant when you

10

said earlier that the child was to receive more if

11

she tolerated it?

12

A. That's right.

13

Q. How many ounces is 30 millilitres?

14

A. 30 mls is 1 ounce.

15

Q. So the order was for 1 ounce

every three hours unless she tolerated more?

16

A. That's right.

17

Q. Could I ask you now to turn to

18

page 41 of the medical chart of the child. I am

19

interested in the progress note amongst the nursing

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notes which appears at the bottom of the page, Miss

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Bucci. I would ask you first if the note beginning

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"At 1900 hours to 3:30 in the morning", and it is

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recorded as being "December 23rd, 1980", is that your
own?

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A. That's right.

Q. Could we deal simply with the first part of the note, that is the note that records events from the start of the shift until 3:30 in the morning and many of us have had some difficulty in the past reading it, would you simply read it for us?

A. "Patient relatively stable. Heparin infusing well. Patient feeding eagerly 1-1/2-2 ounces every three hours. Apex 144-152 and regular. Respirations ... "

and I can't make that out:

" ... 50 to 52. Shallow but in no distress. Colour pink in room air. Dusky when upset. Became restless after second feed however settled well."

Q. Could I ask you to stop there?

A. Yes.

Q. I am going to show you the original medical record of Stephanie Lombardo. Again it is the same entry, and if you could just confirm for us please the respirations that you noted for her?

A. Respirations 50 to 52.

THE COMMISSIONER: What is that?



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MS. CRONK: 50 to 52.

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THE COMMISSIONER: Is it 150 or just 50?

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THE WITNESS: 50.

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MS. CRONK: Q That note confirms I suggest, Ms. Bucci, what you have told us here today, and that is that Stephanie Lombardo was in fact feeding well, eagerly as you described it?

8

A. Right.

9

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Q Was there anything of concern in the respirations which you had noted?

11

A. No.

12

13

Q And as well it confirms as you have suggested she may have received 1-1/2 to 2 ounces every three hours?

14

A. That's right.

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Q My difficulty, however, is this, Ms. Bucci, and you referred to it earlier, that is on my reading of that portion of the note it refers only to two feedings does it not?

19

A. That's right.

20

Q There is no mention of a third feeding?

21

22

A. No.

23

Q And you have told us that you don't recall the 12 midnight feeding, but you do

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L.12

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recall the 9 o'clock and the 3 o'clock feeding?

A. That's right.

Q. Was it your purpose, and was it part of your responsibility in making the progress notes for this child to record those matters of significance in the child's condition?

A. That's right.

Q. And at the time you wrote the note, and perhaps you might not be able to help us with this, but at the time that you wrote the note had there in fact been, as you can recall it, two or three feedings of the child during the course of that long night shift?

A. Would you repeat the question?

Q. Can you recall - I will rephrase it; can you recall today whether in fact there were two or were there three feedings of this child during the course of that long night shift?

A. I only recall doing the two.

THE COMMISSIONER: Would this be a good time?

MS. CRONK: Yes, that's fine, sir.

THE COMMISSIONER: All right, until 2:15 then.

--- Luncheon recess.



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EMT/DG

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on resuming at 2:15

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THE COMMISSIONER: Yes, Ms. Cronk.

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MS. CRONK: Thank you, Sir.

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A. That's right.

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Q. Do I have that correctly?

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A. Yes.

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Q. You specifically recall having yourself fed the child at 9:00 o'clock and at 3:00 o'clock in the morning.

18

A. Yes.

19

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Q. You recognize because we reviewed your evidence that at the preliminary hearing you were asked whether you fed Stephanie Lombardo at midnight, and you responded that you did, and that she fed well.

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A. Yes.

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Q. Do you remember giving that evidence?

A. That is right.

Q. All right. Do you recall as well, Ms. Bucci, being interviewed by Officer Jack Press of the Metropolitan Metro Police Force concerning Stephanie Lombardo on February 15th, 1982?

A. Yes, I do.

Q. Do you recall being asked by him at that time whether or not you had fed the baby during the course of that long night shift and replying:

"Yes, I did. I don't recall when but it would have been around eight when I came on and then again at midnight."
Do you recall being asked that question and answering in that manner at that time?

A. Yes, I do recall saying that.

Q. I recognize that February 15th, 1982 was fourteen months after the death of Stephanie Lombardo, but can we agree to this extent at least that your memory would be fresher with respect to Stephanie Lombardo than it is today?

A. Yes. But I do recall making the error shortly after I spoke to Jack Press that



AA3

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I fed her at eight and then upon reviewing it I realized it that I said eight rather than nine.

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Q. All right. And that you recognized - you recognized that it was an error; you had fed the child at nine not at eight as you had suggested and you recognized that shortly after the interview?

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A. That is right.

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Q. What I am suggesting to you as well is that you indicated to Officer Press at the time you likely fed her around midnight as well but you did not mention a three a.m. feeding. Is that so?

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A. That is right.

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Q. Have you had an opportunity to review that statement in its entirety before testifying here today?

A. Not recently, no.

Q. But you have read it since you had the interview with Officer Press?

A. Yes.

Q. Would it be fair of me to suggest that nowhere in that statement do we find reference to a 3:00 a.m. feeding of Stephanie Lombardo?



AA4

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A. I do not recall one.

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Q. Would you like an opportunity
to look at the statement?

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A. Sure.

5

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Q. Perhaps we can do it this way:
I am showing you a copy of the statement that you are
recorded as having made on February 15th through to
Officer Press. I am showing you the section of the
statement where you were asked whether or not you
fed the baby. Would you take a moment and look at
the exchange and tell me if there is any reference
to a 3:00 o'clock in the morning feeding?

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A. I don't see any record of it.

13

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Q. There is no mention of a
3:00 a.m. feeding in your statement?

15

A. That is right.

16

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Q. Ms. Bucci, is it your evidence
today then that when you testified at the preliminary
hearing you indicated to I believe Mr. McGee that you
fed the child at 12:00 midnight that you were mistaken?

18

19

A. Yes.

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Q. And is it your evidence as well
that when you were interviewed by Officer Press
February 15th and told him likely you fed the child
at midnight, as well, looking at it today, that as

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well was an error.

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A. Right.

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Q. You said that you do not recall
having done so?

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A. That is right.

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Q. Having said all of that, Ms.

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Bucci, and recognizing that the order contained
in the medical chart of the child required that she
be fed every three hours, is it possible that you
in fact did feed her at midnight although you do not
recall having done so?

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A. That is right.

12

Q. And I believe that you have

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already told me that you do not recall having observed
anyone else during the course of that twelve hour
long night shift feeding Stephanie Lombardo anything?

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16

A. That's right.

17

MR. SHANAHAN: Miss Cronk, I wonder now
if the Commissioner has it there, I seem to be the
only one that doesn't have that statement.

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THE COMMISSIONER: Well, I don't
seem to have it either. I have been looking through
what I do have.

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MR. SHANAHAN: I'm in good company then.

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THE COMMISSIONER: I wonder is there

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AA6
EMT/dg

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any problem about that, Miss McIntyre?

MS. MCINTYRE: I don't believe so, no.

THE COMMISSIONER: No, what is the statement?

MS. CRONK: It is a handwritten statement, Sir --

THE COMMISSIONER: Maybe I do have it.

MS. CRONK: It is several pages long. There is a date at the bottom on the last page, February 15th, 1982.

THE COMMISSIONER: I do have it. I wonder if we have a copy of that for Mr. Shanahan.

MR. SHANAHAN: What is it, Ms. Cronk?

MS. CRONK: I believe it to be Officer Press's notes of an interview and a statement that Ms. Bucci made during the course of that interview.

THE COMMISSIONER: I have found one with Seargent Press February 15th, 1982. Is that the whole of this? The one that starts Gloria Bucci, do you recall baby Lombardo?

MS. CRONK: It is, Sir. It is ten pages in length.

THE COMMISSIONER: Yes. Is there a copy of that for Mr. Shanahan?

MS. CRONK: If there is no objection



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by anybody.

MR. YOUNG: I certainly don't object.
I don't have a copy available.

THE COMMISSIONER: No.

MR. YOUNG: I would be happy to share
mine with Mr. Shanahan.

MS. CRONK: I will see that we obtain
one for you, Sir. We don't have one here.

THE COMMISSIONER: Yes all right. If
Miss McIntyre doesn't object because --

MS. MCINTYRE: No, I have no objection.

THE COMMISSIONER: - that's the main
person because I think long ago the police released
them subject only to the consent of counsel for the
witness.

MR. YOUNG: Yes, Sir.

MS. CRONK: Q. Ms. Bucci, one final
question on the matter of these feedings, how is it
that you remember so clearly in your mind today that
you fed this child at 3:00 o'clock in the morning?

A. I was in the process of feeding
her and settling her when I had a friend come to visit
me that night around that time.

Q. Right.

A. And she was there just to share



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a coffee with me and I said I would be with her as soon as I was done with Stephanie Lombardo.

THE COMMISSIONER: You were in the process of feeding her and someone spoke to you?

A. A friend of mine came and visited me that night.

THE COMMISSIONER: A nurse?

A. Another nurse from the hospital.

MS. CRONK: Q. All right. Was your friend the other nurse from another ward in the hospital or was she from ward 4A or 4B?

A. No, she was from the orthopedic ward.

Q. Was she working that night on the Orthopedic ward?

A. Yes, she was.

Q. And after her visit to you and after you had completed the feeding, did you then have an opportunity to chat with her and take a coffee with her?

A. A very brief occasion to chat with her, yes.

Q. Is it your evidence then that your friend's visit is the fact that encourages you or allows you to say that you remember you fed the child at



AA9

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3:00 o'clock in the morning?

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A. That's right.

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Q. And you remember your friend
visiting at about that time in the morning?

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A. That's right.

6

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Q. You testified at the preliminary
hearing as well, Ms. Bucci, that we have seen Stephanie
Lombardo was prescribed a certain type of formula
SMA 27, and the evidence that we received earlier that
you gave at the preliminary hearing indicated that
that was a special blend of formula that was kept
in the refrigerator in the pantry, I believe it was
room 416 on ward 4A.

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A. Yes.

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Q. Do I have that right?

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A. Yes.

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Q. On each occasion that you

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remember feeding Stephanie Lombardo did you yourself
fetch the formula bottle that you used to feed her?

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A. I don't remember that.

20

Q. Is it possible then that some-
one else obtained the bottle and provided it to you for
each of those two feedings that you remember?

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A. It could have been possible.

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Q. I take it you can't help me

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AA10

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as to whether or not that was in fact the case?

A. I can't help you, no.

Q. All right. You have told us as well, Ms. Bucci, that on December 22nd according to your recollection it was not a particular busy night on ward 4A. You told us that it was slow; you don't remember any of your patients being in a particularly hazardous condition so as to require close monitoring by you.

Given that it was a slow night, given that there were few staff (only Mrs. Trayner and yourself on ward 4A) and given indeed that there were very few patients on ward 4A, would there be any reason for anyone else to feed Stephanie Lombardo instead of yourself?

A. No.

Q. And similarly given all those circumstances would there be any reason for anyone else other than you to go and obtain any formula bottles that you needed for Stephanie Lombardo?

A. No.

Q. That I take it might arise if you were very busy and had other responsibilities to attend to but on a slow night it would appear that that is unlikely?

A. That is right.



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Q. I would like to ask you a few questions with respect to the medications that Stephanie Lombardo was receiving. We know that she was receiving heparin. You mentioned it earlier this morning. Was that the only medication of which you are aware that she was prescribed to receive during the course of that long night shift?

A. That is right.

Q. Was she receiving that via normal intravenous apparatus or via a sage pump?

A. It was given via sage pump.

Q. Did you, Ms. Bucci, at any time during the course of that long night shift administer any other medication to Stephanie Lombardo other than the heparin treatment that was prescribed for her?

A. No, I did not.

Q. Did you at any time during the course of that long night shift observe any one else administering any medication to her of any kind?

A. No, I did not.

Q. We have heard Ms. Bucci, that when heparin is administered using a sage pump that the drug is placed into a large syringe with IV fluid and then is allowed to infuse slowly along an IV line tubing into the child. Is that the procedure



AA12

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which applied to Stephanie Lombardo?

3

A. Yes, it was.

4

Q. What colour is heperin?

5

A. It is a clear fluid.

6

Q. And what form did it come in
at that time on ward 4A as you recall it?

7

A. In an ampule.

8

Q. By an ampule are you referring
to a glass container?

10

A. Right.

11

Q. With a clear liquid in it?

12

A. Right.

13

Q. Were you familiar at the time,
given your experience as a member of Marie Mandal's
team, with the form in which digoxin was available
on those wards?

16

A. Yes.

17

Q. Was heperin in the ampule form
that you have described similar in colour to the
digoxin as it was then available in ampule form on
those wards?

20

A. Yes, it was.

21

Q. Where was heperin kept on ward
4A and 4B?

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A. In the medication rooms.

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AA13

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Q. What was the procedure that applied as you understood it if a nurse wanted to obtain heperin from either of the medication rooms for the purposes of administering it to a patient? What was she supposed to do if she wanted to go and get the drug and administer it to a patient?

A. She needed to have the Doctor's order with her seeing that it was a special medication. That would have gone into the medication room with her and another nurse, and the two nurses, registered nurses, would both witness drawing up the proper amount of the medication and labelling it with the little red medication sticker and seeing that it was put into the syringe properly with the correct amount of IV solution. And then both nurses would sign the medication sheet as well as the sticker.

Q. Was heperin a controlled drug at that time on ward 4A or 4B?

A. No, it wasn't.

Q. Can you help me, please why then it was required that the two nurses involved in watching the drug being drawn up should as well sign that it had been drawn up as prescribed and administered to the child? Why did it require a double signature if it was not a controlled drug?



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A. Because of the drug it was. I don't know how to explain it to you.

Q. Was heperin in a special category although it was not a controlled drug?

A. In itself, yes. As insulin would be another one. I don't know how to explain it to you.

- - - -



BmCB.jc
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Q. Heparin is an anticoagulant, is it not?

A. Yes.

Q. All right. And are you saying then that in the case of heparin not only was it required that it be doublechecked when drawn up but it as well was required to be double signed by two registered nurses?

A. That's right.

Q. Have you, Ms. Bucci, been able to find in Stephanie Lombardo's medical chart any record of Heparin having been signed off for that child at any time during the course of her stay during that long night shift on Ward 4A?

A. No, I couldn't find that record.

Q. Could I ask you to look at Stephanie Lombardo's medical chart. Do you still have that there? Exhibit 78.

A. Yes.

Q. Page 92, the medication sheet. Do you have that?

A. Yes.

Q. This document, Ms. Bucci, as you will see is entitled Medications and Nursing Treatments and the one at page 92 for example records



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the doses of mandol that were prescribed for the child and administered to her up to and inclusive of December 20th. There is no indication that that drug was given to the child after the 20th of December. Is it on this form that nurses would be required to sign off if they had administered heparin into the syringe of Stephanie Lombardo's Sage pump?

A. No, it's not on this form.

Q. On what form would that be recorded?

A. It is an anticoagulation sheet or record.

Q. And that was a separate form, separate and distinct from the Medication and Treatment record?

A. That's right.

Q. All right. Was it as well kept with the medical record of the child?

A. That's right.

Q. At the time that you were interviewed by Officer Press on February 15th, 1982, I take it you had available to you the medical chart of Stephanie Lombardo?

A. I did.



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Q And did you review it on occasion during the course of that interview to assist you in recalling details of what had happened to the child?

A Yes, I did.

Q Did you at that time observe present in the chart the kind of anticoagulation sheet that you just mentioned?

A No, I didn't.

Q Similarly when you testified at the preliminary hearing later in the spring of 1982 did you have available to you during the course of your evidence - well, indeed we have seen that you did --

A Yes.

Q The chart of Stephanie Lombardo?

A Yes.

Q And at that time did you notice the kind of anticoagulation sheet that you have referred to present in the chart?

A No, I didn't.

Q Do you recall whether or not it was in the chart after Stephanie Lombardo's death on the morning of December 23rd?

A That I don't remember.



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Q. All right. We know Ms. Bucci that you wrote a progress note on the events of that night from the beginning of your shift until the time of Stephanie Lombardo's death and we have seen in part what you wrote on that occasion. Was it your habit to write progress notes as events occurred to a particular patient or did you do so at a specific time during the course of a shift?

A. I did it at a specific time, usually at the end of a shift.

Q. Do you recall when you wrote that progress note with respect to Stephanie Lombardo?

THE COMMISSIONER: Which one are we referring to?

MS. CRONK: I'm sorry, it is the one that covers the entire shift, sir, from 1900 hours to 3:30 in the morning. I believe it is on page 42 of the chart.

THE COMMISSIONER: Thank you.

MS. CRONK: Q. Do you remember now when you wrote that?

A. I believe I wrote that note after Stephanie's death.

Q. All right. That would be at the end of the shift?



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A. No, it would have been after her death, after her arrest.

Q. Shortly after she was pronounced dead?

A. Yes.

Q. All right. And would you have written the entire note at that time or just that portion of the note which pertained to events after 3:30 in the morning?

A. The entire note.

Q. Do you recall at that time, the time that you wrote that progress note, whether or not the anticoagulation sheet you have described formed part of the record, or do you know?

A. I don't remember.

Q. All right. Well, we will return to that in a moment. Can you help me with this, Ms. Bucci? At any time during that long night shift from the time you came on duty until the time that Stephanie Lombardo died, did you have occasion or did anyone else to your knowledge have occasion to refill the syringe that was connected to her Sage pump?

A. I don't recall.

Q. All right. Well, you have told



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me earlier in the day that one of the matters that you wanted to clarify from your evidence at the preliminary hearing was that you and Mrs. Trayner were together at one point in the medication room during the course of that long night shift?

A. That's right.

Q. All right. Can you describe for me please what you do remember about that occasion?

A. I do remember being in the medication room with Phyllis drawing up some medication but, as I said, I don't know if it was the digoxin or the heparin.

Q. All right. Well, do you recall whether or not your patients that night were in fact on digoxin?

A. I don't recall that, no.

Q. All right. Are you aware of the fact that Stephanie Lombardo was not prescribed digoxin for that night?

A. Yes.

Q. All right. Do I take it then, do you have any recollection as to the time at which you were in the medication room with Mrs. Trayner?

A. No, I don't.



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Q. Was there anyone else there other than the two of you?

A. No, there wasn't.

Q. Apart from refilling the syringe on Stephanie Lombardo's Sage pump did you at any time that night observe anyone handling the Sage pump or the syringe attached to it or the IV line?

A. No, I didn't see anyone.

Q. Did you yourself for any purpose that night have any reason to handle either the sage pump, the syringe attached to it or the IV line?

A. Only to change it if the fluid ran dry.

Q. All right. And I take it from what you said just a few moments ago that you don't remember having done so?

A. That's right.

Q. Do you recall being interviewed by Commission staff on April 11th of this year, Ms. Bucci, to review the evidence that you would be prepared to give before the Commissioner?

A. Yes, I do.

Q. And do you recall your counsel being present, Ms. McIntyre?



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A. Yes.

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Q. And Ms. Fineberg of the

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Commissioner staff?

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A. Yes.

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Q. And myself?

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A. Yes.

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Q. Do you recall at that time being

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asked whether or not you had had occasion during the
long night shift to change the syringe on Stephanie

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Lombardo's Sage pump?

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A. Yes.

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Q. Do you recall being asked that?

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A. Yes, I do.

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Q. Do you recall responding that

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indeed you had once before her arrest and you thought
before midnight?

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A. Yes, I do remember.

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Q. Do you remember saying that?

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A. Yes.

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Q. Was that true at the time,

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Ms. Bucci?

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A. Well, after I thought of that

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when I went home that day I thought that I might have
been mistaken and it could have been drawing up the

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digoxin.

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Q All right. Well, can you help me please. Make the assumption for the moment that you in fact were required to refill the syringe on the Sage pump that night.

A Yes.

Q If you were to do that with the purpose of refilling it with heparin how would you go about that, what would you have to physically do to refill that syringe?

A Okay, I would first need the doctor's order, so, I would bring the whole chart in with me.

Q In where?

A Into the medication room.

Q Yes.

A So, I would take the ampule off the shelf, look at the chart with the ampule and then the other nurse with me, Phyllis, that was she, and read the ampule and the order. Then I would take a small syringe and draw up the required amount of heparin. In the meantime, I would also prepare the large syringe with 50 millilitres of the intravenous fluid. Then I would instill the small syringe into the larger syringe and then properly label that with the red medication label. The other nurse would



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witness me doing this or sometimes she could have done one thing and I would have done the other. I might have done the heparin and the other nurse could do the large syringe.

Q That procedure is significantly different in at least two respects is it not from the procedure that you would follow in drawing up digoxin?

A. That's right.

Q All right. It is different in the sense that two syringes are involved?

A. Right.

Q You have to draw up the heparin in the syringe?

A. Yes.

Q You then have to, using the syringe that has the heparin in it, insert that into the syringe to be connected to the Sage pump?

A. That's correct.

Q So, to that extent at least it is significantly different from the way one would proceed in the normal course to draw up digoxin?

A. That's right.

Q Is it not different as well in that to refill or to change the syringe on a Sage pump you have to draw up IV solution?



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A. Yes.

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Q. Which is as well placed in the syringe connected to the Sage pump to allow the heparin to dilute and then infuse?

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A. That's right.

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Q. And that is as well a distinctly different feature that doesn't apply when one is drawing up digoxin?

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A. That's right.

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Q. Do you have any recollection today sitting here, Ms. Bucci, of having in fact drawn up heparin, whether in the presence of someone else or not, to change the syringe on Stephanie Lombardo's Sage pump?

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A. The only recollection I do have, I think I had a chart in the medication room with me. If I was drawing up the digoxin I would be using --

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THE COMMISSIONER: I'm sorry, the digoxin? If you had been drawing it up.

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THE WITNESS: I'm using a hypothetical.

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THE COMMISSIONER: Yes.

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THE WITNESS: If I had been using the digoxin I would use the little medication tickets that we use.

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THE COMMISSIONER: Yes.

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THE WITNESS: The heparin I would have had the chart with me and I think I recall having the chart in the room with me.

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THE COMMISSIONER: All right.

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MS. CRONK: All right.

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Q As I understand what you are saying, if you had been drawing up digoxin you would have relied on the medication tickets?

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A Right.

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Q There would not have been the need to have the chart physically with you in the medication room?

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A That's right.

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Q And you distinctly remember having the chart, a chart with you in the medication room?

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A That's right.

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THE COMMISSIONER: Well, might there have not been other children who would be on digoxin that you might have been drawing up the digoxin for that night?

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THE WITNESS: Well, that's why I say I think I recall having a chart and if any other children - if I was drawing up any digoxin for any other child I would still be using the medication ticket.

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THE COMMISSIONER: Well, I'm sorry,
but I don't know what this is to prove.

MS. CRONK: All right.

Q Ms. Bucci, if one of your
other patients were on a drug other than digoxin.

A. Yes.

Q And other than heparin.

A. Yes.

Q Is it not possible that a
situation might arise where you would be required to
go to the medication room and draw up their medication
and you might have with you their medical record? In
other words, what makes heparin so special, why do
you have to have the medical record in the medication
room to draw up heparin but not to draw up other drugs?

A. Well, heparin wouldn't be - I
don't know how to put it - a standing drug where you
had specific times to draw it up. The tickets were
made for drugs that you had to give at specific times,
like, every four hours or every six hours. Heparin
you drew up as you required it. Am I making sense?

Q Yes.

A. So, I would need the chart to
go by the order written to see that I'm drawing up
the correct medication.



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Q And you think it unlikely that you would require the chart in the medication room to draw up other drugs which were prescribed to be administered at specific times?

A That's right.

THE COMMISSIONER: I'm sorry, where in the chart was there an order for heparin? This is found on page 90, is it?

MS. CRONK: The doctor's orders, Mr. Commissioner, are found at page 90.

THE COMMISSIONER: 89, 90?

MS. CRONK: Page 90 for the 22nd of December, sir.

THE COMMISSIONER: Yes.

MS. CRONK: And you will see that Item No. 3 is "add 3,000 units to 50 millilitres IV, run heparin at 1 ml per hour."

THE COMMISSIONER: Yes.

MS. CRONK: Q In the face of that kind of an order, Ms. Bucci, how often would the syringe on the Sage pump require changing?

A Well, according to this every 50 hours (sic) but we didn't let heparin - if it is running at 1 ml an hour there are 50 mls. But we didn't let heparin sit that long and I'm not quite



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sure of the procedure, I think it was changed every
eight hours automatically.

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Q. And depending upon when it had
been changed before you came in to work to start that
12-hour shift, at some point during the 12-hour shift,
unless Stephanie Lombardo had unfortunately died
before that time, that syringe would have required
changing?

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A. That's right.

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Q. And if it was required that it
be changed and Stephanie Lombardo had not yet gone
into an arrest, would there be any reason that any
other nurse from 4A or 4B that night would change
that syringe instead of yourself, the nurse assigned
to her care?

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Q. You have told us that you don't have a specific recollection of having yourself done so, but you do recall having a medical record, a medical chart with you in the medication room at some point that might answer that?

A. That's right.

Q. Do you recall who was there with you at the time? Is that the occasion where Mrs. Trayner --

A. I do remember Mrs. Trayner once being in there with me.

Q. I referred you once already, Ms. Bucci, to an interview that took place with Commission staff and yourself on April the 11th. I asked you whether you remember at that time, during the course of that interview, indicating as well that Mrs. Trayner and yourself had gone together to the medication room, you thought before midnight, and that you yourself had drawn up Heparin into , your words, 3 cc's?

A. Yes.

Q. And that you had drawn up I.V. solution 15 cc's, and that Mrs. Trayner observed you draw up the Heparin, and that you yourself then inserted the Heparin into a large syringe and changed



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on the sage pump. Do you remember that?

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MR. STRATHY: I believe she just said a few minutes ago that she remembered saying something at the meeting but then after she left she realized that she was mistaken.

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THE COMMISSIONER: I'm not sure that this is the same thing.

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MR. STRATHY : Maybe it is another one.

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THE COMMISSIONER: Are we talking about the same thing?

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MS. CRONK: My dilemma , sir, is that the nature of the discussion as I recall it and perhaps others recall it during that interview --

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THE COMMISSIONER: What Mr. Strathy is saying is is this a matter that you dealt with earlier?

MS. CRONK: It is the same occasion, I am not sure that all of it is the same occasion, now, sir. My point is earlier as I recall it, Ms. Bucci provide a number of details with respect to what had happened in changing this syringe on the sage pump, and I would like to explore it with her further.

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THE COMMISSIONER: I agree with all of



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that. That is not what Mr. Strathy is objecting to, he is saying that he thought that she had said upon further recollection that she wanted to change her story from what she had said to you at the Commission offices, isn't that right? Is that the same occasion, is it the same matter?

THE WITNESS: I believe so.

Q. Well, you are the only one who can tell us whether it is the same matter or not.

THE WITNESS: I think the question Mrs. Cronk is asking me is --

THE COMMISSIONER: Yes.

THE WITNESS: ... is the same as the earlier one where I said that I was mistaken.

MR. STRATHY: That is my understanding.

THE COMMISSIONER: Right, do try to straighten it up.

MS. CRONK: I will try to get at it another way.

THE COMMISSIONER: All right.

Q. Ms. Bucci, apart from the occasion that you have outlined for us that you do remember being in the medication room with Mrs. Trayner as you described it. Do you recall at any point during that long night shift of being in the medication room



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and yourself drawing up a drug into a 3 cc syringe
when Mrs. Trayner was also in the room?

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A. I did draw up the medication,
but I didn't remember which one it was.

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THE COMMISSIONER: You drew up a
medication?

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THE WITNESS: A medication. Digoxin
is also drawn up in a syringe at that time, so that
is why I confused the two, I am not sure which one
I did draw up. I wonder if I just followed the
procedure mentally as I would normally have done in
relating that to you.

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Q. Do I have it then that it is
your best recollection today that you can't assist
us with a clear recollection as to whether or not
you changed the syringe on the sage pump that night?

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A. Yes.

Q. And drew up the Heparin to do so?

A. Yes.

Q. Do you have any knowledge of
anyone else having done so at any point during that
shift?

A. No.

Q. Can we agree however, given what
you have told us, that normally the syringe would



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require changing every eight hours, that it is quite possible that it required the changing during the course of that shift?

A. That's right.

THE COMMISSIONER: And then you were telling us something about remembering being in the medication room with a chart?

THE WITNESS: That's right.

THE COMMISSIONER: Now would the chart be there if you were there, is that why you think you might have been --

THE WITNESS: The Heparin.

THE COMMISSIONER: It might have been the Heparin?

THE WITNESS: That's right.

THE COMMISSIONER: You wouldn't have needed the chart for digoxin?

THE WITNESS: That's right.

THE COMMISSIONER: Would you have needed it for any other kind of medication?

THE WITNESS: If there was a stat medication a one time dose.

THE COMMISSIONER: A which?

THE WITNESS: A one time dose medication.



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THE COMMISSIONER: Yes.

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THE WITNESS: Rather than a standing

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one.

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THE COMMISSIONER: Well, you have got

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the - well of course you have other children so it

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could have easily have been obtained for one of them.

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THE WITNESS: Yes.

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THE COMMISSIONER: But you don't

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really know whether you were there for the purpose
of --

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THE WITNESS: No.

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THE COMMISSIONER: All right.

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Q. Ms. Bucci, had the syringe

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connected to the sage pump been changed during the

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course of that shift before Stephanie Lombardo went

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into arrest and died, that would require the drawing

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up of Heparin and the drawing up of I.V. fluid to

dilute it, is that correct?

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A. Yes.

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Q. Am I correct in suggesting that

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that would require as well, on the face of what you

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have just told us a record to have been kept on the

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anticoagulation sheet that the Heparin had been drawn

up and used to refill the syringe on the sage pump?

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A. That's right.

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Q. I am showing to you Ms. Bucci a document that has been provided to us by the Hospital entitled 'Anticoagulation Flow Sheet'. It is in blank. Would you take a moment and just look at that sheet and tell us whether or not that is the kind of sheet that you recall being used to record the drawing up and administration of Heparin on this particular night?

A. This is not the sheet that we used when I was there.

Q. Thank you.

MS. CRONK: Mr. Commissioner, at the request of Commission Counsel the Hospital has been kind enough to make inquiries as to whether or not it could locate the document described by Ms. Bucci as the 'Anticoagulation Sheet' which she suggests is not in Stephanie Lombardo's chart and which she recalls should have been used at the time. Ms. Thompson has provided to us a letter explaining that they have been unable to find such a document, that it is not in fact what might be described as a standard stock form, and the sample they have provided is one that is used in another area of the Hospital. May I ask for purposes of the record that that letter be marked?



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THE COMMISSIONER: Well I guess so.
What you are doing is marking a document that was
not used, is that it?

MS. CRONK: There, I would like the
letter marked.

THE COMMISSIONER: The letter, the
letter is the important document is it?

MS. CRONK: Yes sir.

THE COMMISSIONER: Yes, all right.

Q. We are then in this dilemma
Ms. Bucci, at least as far as you are able to assist
us, and that is we appear to be missing an anticoagulation
flow sheet of some kind.!

THE COMMISSIONER: 406.

MS. CRONK: I am sorry, sir.

THE COMMISSIONER: 406.

MS. CRONK: Thank you.

--- EXHIBIT NO. 406: Letter from Hospital Counsel
to Ms. Cronk, April 24th, 1984.

Q.... that should have been kept in
Stephanie Lombardo's chart to record the giving of
Heparin?

A. Yes.

Q. The second is if the syringe on
the sage pump was changed that night you can't help



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us because you don't recall as to who did it, when it might have been done, or how it might have been done.

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A. That's right.

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Q. Just one final matter, Ms. Bucci and then I will be complete. You have told us that you remember feeding Stephanie Lombardo at 3:00 o'clock in the morning. Do you remember feeding her precisely at 3:00 o'clock in the morning, or could it have been a few minutes after three or a few minutes before three?

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A. The time could have varied.

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Q. By varied can you help us as to how much it could have varied?

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A. Five minutes before or after.

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Q. What did you do when you completed that 3:00 o'clock feeding?

A. I made sure Stephanie was comfortable, and I'm sure, I am pretty sure she was sleeping when I did leave her, she was settled nicely. I just left the room. I did tidy up, I emptied the bottle that she fed from and cleaned up and then I just left the room.

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Q. Do you recall emptying the bottle that she had fed from?

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A. I remember rinsing it out.



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Q. And you have already told us that according to your recollection she fed well, there was no difficulty with that feeding?

A. That's right.

Q. How long did it take to feed her, do you remember?

A. Not long at all. I couldn't tell you how much time.

Q. Well, we know that she was - the order of the physician was that she was to receive one ounce, and you said, unless she could tolerate more that she may have taken one and a half to two ounces?

A. Yes.

Q. How long would it take to feed a child who was feeding eagerly one and a half to two ounces of S.M.A. 27?

A. No more than five minutes.

Q. After you had completed the feeding and done the tidying up that you described, what did you do then?

A. I left her room and I went to the nursing station.

Q. Did she settle down immediately after you completed the feeding, or did it take you



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a while to ensure that she had gone to sleep?

A. I am not sure how long it took her to settle.

Q. You told us that she settled nicely. I think it would be fair to suggest that you have no recollection that she had difficulty going back to sleep, or at least in settling down.

MR. STRATHY: I'm sorry, are we talking about midnight?

MS. CRONK: 3:00 o'clock.

THE COMMISSIONER: 3:00 o'clock.

MR. STRATHY: I thought it was the 3:00 o'clock feeding she didn't remember.

THE COMMISSIONER: "3:00 o'clock feeding made her comfortable --"

MS. CRONK: It was the 12:00 o'clock feeding she couldn't remember.

THE COMMISSIONER: And then,

"Made her comfortable and then you left her".

I take it would she be asleep, or not?

THE WITNESS: I am pretty sure she was asleep when I left her.

MS. CRONK: Q: And you then went to the nursing station. Can you tell me please who



CC12

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was there when you arrived?

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A. I don't recall who was sitting in the nursing station except for my friend, paula Giffin.

5

6

Q. Paula Giffin?

7

8

A. Yes, Paula Giffin. When I did get up to leave I do remember a couple of the nurses following me out to go back into Stephanie's room and they were Karen Power and George.

9

10

11

Q. And they followed you from the nursing station to go back into the room?

12

A. Back into her room, yes.

13

14

Q. When you arrived at the nursing station you said that your friend Ms. Giffin was there?

15

A. Right.

16

17

Q. Had she come in to room 418 at any point while you were still feeding Stephanie Lombardo?

18

19

A. No she stood outside of the door and said that she was there, and then she went back into the nursing station.

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21

22

Q. When you arrived at the nursing station do you recall whether or not Mrs. Trayner was there?

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CC13

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A. No, I don't remember her being there.

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Q. I take it you said that you remember subsequently that when you got up at least two members of 4B staff got up and went with you and went into room 418?

7

8

A. That's right.

9

10

11

Q. Do you have any specific recollection of any other member of the nursing staff that night being at the nursing station when you arrived?

12

A. No, I don't remember.

13

14

Q. Do you know if Ms. Trayner was at the nursing station?

15

A. No.

16

Q. What happened next?

17

A. I was sitting there for a very brief time and --

18

19

THE COMMISSIONER: You are sitting at the nursing station?

20

THE WITNESS: At the nursing station.

21

22

THE COMMISSIONER: I am sorry. I guess that is right, I had got you back to the room and somehow or other we seem to have reverted. *ok*

23

Ms. Cronk and I have just gotten

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CC14

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you there I think but we will try again.

THE COMMISSIONER: All right.

MS. CRONK: Q: When you arrived at the nursing station what did you do next?

A. I sat for five to ten minutes.

Q. And what happened then?

A. Then Phyllis came just to the outside of the nursing station and said, 'Gloria come quick', and as she turned around to go she said, 'Stephanie is in trouble', something to that effect. So I got up and followed her as well as Karen Power and George, and we all went in to see Stephanie at the time and she was in quite a bit of distress actually.

Q. Can we stop there for a minute.

A. Yes.

Q. Had Mrs. Trayner been with you in 418 when you fed Stephanie at 3:00 o'clock?

A. No one else was in the room with me.

Q. Where was she specifically when she called out to you?

A. Just outside of the nursing station.

Q. On the 4A side or the 4B side?



CC15

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A. 4A side.

3

Q. What room would she have been

4

closest to?

5

A. 418 and the pantry, that inter-

6

section there.

7

Q. When you left room 418 to come

8

out to the nursing station, did you go to the

9

nursing station directly or had you gone anywhere

10

else first?

11

A. I went down directly to the

12

nursing station.

13

Q. During the time you were at the

14

nursing station, before you heard Mrs. Trayner

call out to you, did you see anyone go into room

15

418?

16

A. No, I didn't.

17

Q. And from where you were sitting

18

at the nursing station was your line of sight such

19

that you could have seen anyone who did go into room

20

418?_

21

A. No, I couldn't see anyone.

22

Q. Where were you sitting at the

23

nursing station?

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A. At the very back towards the

25

window.



CC 16

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Q. We have heard, the exhibit is hidden by the blackboard here, we have heard that at the nursing station on those two wards there were tables set up at the back of the room of the nursing station?

A. Yes.

Q. And at the front was counter?

A. That's right.

Q. Where were you sitting with respect to those tables and the counter?

A. I was sitting on the left hand side facing 418 and she came to the door around the corner of 418.

Q. From where you were sitting at the back of the nursing station, would you of necessity have seen anyone who had gone into room 418?

A. No.

Q. Did you have your back to 418?

A. No.

Q. I thought you said you were facing 418?

A. I was facing that yes.

Q. Could someone have gone into that room without you having seen them?



CC17

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A. Yes.

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Q. I take it that would be so because they could have gone in from the far corner of Ward 4A?

5

6

A. That's right.

7

Q. Are any of the rooms along that corridor?

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9

A. Yes.

10

11

Q. Could anyone have gone in from the opposite end or Ward 4B, I take it they would have had to walk by the nursing station to do that?

12

A. That's right.

13

14

Q. And you in any event saw no one go into the room when you were at the nursing station?

15

A. That's right.

16

17

Q. How long had you been at the nursing station before Mrs. Trayner called out?

18

THE COMMISSIONER: She came I think, didn't Mrs. Trayner come to the nursing station?

19

THE WITNESS: Just to the outside door or it, yes.

20

21

THE COMMISSIONER: There is no door, is there? Just to the outside counter?

22

THE WITNESS: That's right.

23

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MS. CRONK: Q: How long had you been

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CC18

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nursing station before this?

A. I estimated about five to ten minutes.

Q. And she told you to come quickly?

A. Yes.

Q. And you think she said something about Stephanie Lombardo being in difficulty or distress?

A. Yes.

Q. Those were your words?

A. Yes.

Q. And you got up when you heard that?

A. Yes.

Q. And you went into 418?

A. Right.

Q. Did your friend paula Giffin go with you?

A. She did follow us in but I don't know how far in she did come, it wasn't right to the babies bedside. I remember just myself, Karen, Phyllis and at this point I do remember Meredith Frise being there.

Q. Being in room 418?

A. Around the bedside, the baby's



bedside.

Q. Could I ask you to refer again to
the transcript of your evidence at the preliminary
hearing again, Ms. Bucci at page 74. You recall
being asked these questions.



DD/EMT/LN 2

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THE COMMISSIONER: Page 74 of Volume?

MS. CRONK; 27, sir.

THE COMMISSIONER: Thank you.

Q.

"Q. What time would it have been that Phyllis called you into the room? Do you recall that.

A. It was around 3:30 at that time.

Q. How long before that had you been in the room?

A. The 3:00 o'clock feed, and I don't recall when, though, I had finished the 3:00 o'clock feed and left.

Q. Do you recall how long it had been when you left the room between that time and the time Phyllis called you?

A. No.

Q. Did you see Phyllis go into the room?

A. No."

Do you recall being asked those questions and giving those answers, Ms. Bucci?

A. Yes.

Q. I suggest to you that at the time you were asked the questions at the preliminary



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hearing you were unable to say how long it had been between when you had left room 418 and the time when you heard Mrs. Trayner calling out to you asking you to come back. That was your evidence then.

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A. That's right.

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THE COMMISSIONER: That is not quite right. I thought she said it was around 3:30 at that time. She said 3:00 o'clock feed. "I would have finished the 3:00 o'clock feed and left". And she has given us evidence that would have taken - she took it quickly and that would be about 5 minutes. So at the preliminary enquiry it would probably be about 25 minutes, would it not that you were there?

14

MR. STRATHY: Sorry, Mr. Commissioner, I don't understand your reference to 5 minutes.

15

16

17

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THE COMMISSIONER: Well, that's some previous evidence that she gave. She said "she took it quickly" and I thought it would be just about 5 minutes. Isn't that what you said?

19

THE WITNESS: That is right.

20

21

22

MS. CRONK: The question that is causing me concern, Mr. Commissioner, and I wish only to have it clarified is the next question which you didn't read and that was:

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"Do you recall how long it had been when



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you left the room between that time and
the time Phyllis called you"
and her answer was "no".

THE COMMISSIONER: She said that but
she said about three questions before it was around
3:30 at that time.

MS. CRONK: It is the time that elapsed,
sir, that I am interested in.

THE COMMISSIONER: I see.

MS. CRONK: I ask you, Ms. Bucci -

THE COMMISSIONER: I agree, but I am
playing detective, I'm afraid and I shouldn't be
doing that sort of thing, but as I figure, you said at
the preliminary enquiry - Miss McIntyre wants to get
into this act too - that working out your figures
it was about 25 minutes and now you make it only about
10 minutes. I am not really terribly disturbed about
the difference between 10 and 25 minutes. I would
just like to know which it was.

THE WITNESS: As I said, I estimated
the time it took. Five minutes to feed her, let's
say.

THE COMMISSIONER: Yes.

THE WITNESS: And then some more time
to settle her.



DD4

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THE COMMISSIONER: Yes.

THE WITNESS: And tidy up the room.
And then I estimated 5 to 10 minutes.

THE COMMISSIONER: All right. Well,
I think Miss McIntyre was up first.

MS. McINTYRE: I think, Mr. Commissioner,
I was just going to point out that the witness
has said that the 3:00 o'clock feed could vary on
either side of 3:00 o'clock.

THE COMMISSIONER: Yes. That's true.

MS. McINTYRE: And that adds another
variable into the equation.

THE COMMISSIONER: Yes, so really -
now Mr. Roland?

MR. ROLAND: Miss McIntyre has
anticipated my comments.

THE COMMISSIONER: All right. Well at
any rate would the time around about 3:30, would you
like to stick with that as about the time that Mrs.
Trayner called you?

THE WITNESS: Called me? Yes.

THE COMMISSIONER: What does it say in
the chart? What does it say here?

MS. CRONK: That's the progress note
that we referred to earlier, sir, that at 3:30



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there is a recording of the child getting into
difficulty.

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THE COMMISSIONER: Well, that sounds
like pretty good time, don't you think, or do you?

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MS. CRONK: Without passing on that,
sir, the interval of concern at the moment to me is
your best recollection as to the amount of time that
had elapsed between the time you arrived at the nursing
station and the time when Mrs. Trayner asked you to
come into the room and said that Stephanie Lombardo
was in distress.

12

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Q. Have I understood your evidence
correctly, your best recollection of that time
interval is between 5 and 10 minutes?

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A. That is right.

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Q. All right. When you then went
into the room and you have told us who went with you,
briefly what was Stephanie Lombardo's condition at
that time?

A. She was in respiratory distress.
Her breathing was quite laboured. She was cyanosed and
she was vomiting some mucus at the time as well.

Q. Would it assist you to look at
your progress note, Ms. Bucci. I would ask you to do
so, page 42 of the chart.



DD6

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A. Yes.

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Q. And do you recall anything else

4

about Stephanie Lombardo's condition when you were in
the room.

5

6

A. I did listen to her apex and it
was irregular and slow at the time.

7

8

Q. Were there any physicians

9

present in the room when you first went into it,
Mrs. Trayner having called you.

10

A. Not when we first arrived at

11

her bedside.

12

Q. Was any physician called in

13

light of Stephanie's condition?

14

A. Yes, Dr. Halpern was there almost
immediately.

15

Q. I was going to show you the

16

original of Stephanie Lombardo's medical chart

17

because I think on our copies, Ms. Bucci -

18

A. Yes

19

Q. - part of your progress notes

20

may have been inadvertently cut off in the photocopy.

21

Reading the 3:30 note, am I reading it correctly:

22

"The baby became restless, breathing

23

very shallow. Apex irregular and

24

bradycardic. Placed on cardiac monitor,

25



DD7

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Dr. Halpern called."

3

A. Yes.

4

Q. And then it continues over to

5

the next page to record that her colour became

6

increasingly dusky and so on?

7

A. Right.

8

Q. Thank you. Were you present

9

during the arrest and resuscitation of the child,

10

Ms. Bucci?

A. Yes.

11

Q. And according to your progress

12

note Dr. Brand was called as well and a code 25

13

was called?

14

A. That's right.

15

Q. What was your reaction to

16

Stephanie Lombardo when you went into the room and

17

saw Stephanie Lombardo having just left her 5 or

18

10 minutes prior to that time in what you thought to

19

be a well settled condition ?

20

A. I was quite alarmed. Her arrest

21

let's say was quite unexpected by me. I did not

22

imagine that she would arrest in this manner on such

23

a quiet night for me. So as I say. I was surprised

24

to find out she had deteriorated so quickly.

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Q. Had her condition in your judgment



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changed dramatically from the time that you left the room until the time you came back in some 5 or 10 minutes later?

A. Yes, it had.

Q And when unfortunately the child was unable to be resuscitated and was pronounced dead, did the fact that she died in those circumstances and in the way that she had take you by surprise.

A. Yes, it had.

Q. Did you regard it as unexpected?

A. Yes.

Q. Did you see or observe anything that night, Ms. Bucci, that you can now recall which you regard as unusual or curious involving Stephanie Lombardo?

A. No, I can't.

Q. What did you think was the explanation for her death?

A. At the time of death I had no reason - I had no explanation for it. I later learned that her shunt probably did close over or occlude.

THE COMMISSIONER: Probably did what?

THE WITNESS: Her shunt occluded.

THE COMMISSIONER: Yes.



DD9

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MS. CRONK: Q. Do you recall when
you learned that?

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A. I don't remember when, no.

5

Q. Do you recall from whom you
learned that?

6

7

A. No, I don't.

8

Q. When you did learn it did that
provide any reassurance to you as to why the child
had died?

9

10

A. Yes, it had.

11

Q. You told me that you did not
during the course of that night observe anything
unusual or curious involving Stephanie Lombardo. What
was your own reaction when you went back into that
room some 5 or 10 minutes after you had left the
child to find her condition as you have said so
dramatically changed? What went through your mind
then?

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A. I was very upset and as a nurse
I thought actually I hadn't been watching her
closely enough. I thought perhaps I had missed
something when I was actually with her at the time
because she went so quickly. But later on when I
did find out the reason that she did arrest, it
did reassure me as you say and I felt better. I

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DD10

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felt I had a reason for the way she died.

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Q. Did you find it unusual that in the space of some 5 or 10 minutes the child's condition could alter so dramatically from what you had seen before.

A. Not when I learned of what could possibly have happened to her.

Q. Are you saying that when the explanation of possibly occluded shunt was provided to you, that resolved in your mind any issue over the short time involved in the change of that child's condition.

A. That's right.

Q. You had no further questions in your mind at that time?

A. That is right.

Q. During the course of that evening Ms. Bucci, did you observe anyone in room 418 other obviously than yourself and your two patients -

A. Yes.

Q. - did you see anyone in that room that night prior to this child's arrest?

A. I don't remember.

Q. One way or the other?

A. That is right.



DD11

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Q. Do you recall at any point prior to 3:30 in the morning, for example, observing any of the 4B nursing staff who were working that night in that child's room, room 418?

A. I don't recall.

Q. Again one way or the other? They might have been or they might not have been?

A. That is right.

Q. Similarly do you recall at any time prior to 3:30 in the morning seeing Mrs. Trayner the only other nursing member on 4A that night in room 418 at any point in time?

A. I don't recall.

Q. Again one way or the other?

A. That's right.

Q. Are you aware Ms. Bucci that after exhumation of this child's body concentrations of digoxin were found in numerous tissue specimens?

A. Yes.

Q. And you knew, of course, you told us, that the child had not been prescribed digoxin and was not, according to the hospital records and the physicians' orders to have received any the night of her death.

A. That's right.



DD12

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Q. Yet it appears somehow that she
did ?

A. Yes.

Q. Did you observe or see anything during
the course of that long night shift on December 22nd
and the early morning of December 23rd, Ms. Bucci,
or indeed learn anything that night or subsequently
which could assist the Commissioner in determining
how this child received digoxin such that it could be
found in her exhumed tissues ?

A. No.

Q. And looking back over that night
and I assume that you have replayed it in your own
mind prior to coming today to give evidence?

A. Yes.

Q. As well you gave evidence about
it at the preliminary hearing?

A. Yes.

Q. Is there anything at all that
stands out in your mind as having been an event out
of the ordinary or anything that you thought odd
in looking back on the night that might help us
explain what happened to that child?

A. No.

Q. And I take it that in looking



DD13

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2 back on it the unusual feature that you recall is
3 the dramatic change in her condition that 5 or 10
4 minutes from the time you left the room and the time
5 you were called to go back in?

6 A. Yes. Only that.

7 MS. CRONK: Thank you. I have no further
8 questions, Ms. Bucci.

9 THE COMMISSIONER: I can remember this
10 problem being raised before about the shunt, the occlusion
11 of the shunt. This baby was exhumed. Have we ever
12 sought to find out -

13 MS. CRONK: Sir, it has been dealt
14 with. That issue has been dealt with and it may be
15 a matter of some controversy to those in the room.
16 You will recall as early as Dr. Rowe's attendance -

17 THE COMMISSIONER: Oh, I know there
18 is this suspicion, but I thought there was some
19 possibility that the baby could have been examined
20 at the time of the exhumation to determine whether
21 the shunt occluded or not, and I know nothing about
22 it. Has that been done?

23 MS. CRONK; Well, that may have happened,
24 sir. The exhumation itself, of course, sir, took place
25 long before the creation of this commission. There
is no positive evidence before you as to whether the



DD14

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2 shunt had in fact occluded although there is
3 opinion and evidence on either side of the question.

4 THE COMMISSIONER: I understand that,
5 but it is the examination of the body -

6 MS. CRONK: There is no evidence before
7 you, sir, as to that matter having been definitively
8 determined on exhumation.

9 MR. STRATHY: I think the point as I
10 think the question the Commissioner is asking, with
11 respect, I think the problem was the child was
12 exhumed -

13 THE COMMISSIONER: When the child was
14 exhumed, was it just for the purpose of digoxin
15 readings?

16 MS. CRONK: Yes, sir.

17 THE COMMISSIONER: That was all that
18 was done?

19 MS. CRONK: There were tissue specimens;
20 that was the purpose to obtain tissue specimens to
21 test for digoxin.

22 If it helps you further, sir, I am
23 unaware of any evidence or examination having been
24 made at that time to examine the shunt.

25 THE COMMISSIONER: I just remember being
bothered by that problem sometime ago and I take it it



DD15

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is not possible - there is no witness who could
assist us in the actual question.

3

4

MR. YOUNG: Perhaps I could be of
some assistance?

5

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THE COMMISSIONER: Yes.

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MR. YOUNG: It is my understanding that
as a result of the decomposure on exhumation, if any
enquiries were made as to whether or not the shunt
had occluded they probably wouldn't have been fully
answered. When the child's body decomposed that
answer disappeared then.

12

THE COMMISSIONER: Yes.

13

14

15

MR. YOUNG: I am not sure even if such
examination was made, and I am not sure if it was
or was not, but if it had been made I am not sure
that that answer could have been provided.

16

17

THE COMMISSIONER: Well, who did it?
Do we know?

18

19

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MS. CRONK: Well, sir, the order, of
course, as you will appreciate came in the normal
course from the Attorney General's office.

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MS. CRONK: Who actually physically
conducted the exhumation and examined the body I
don't know, but I will certainly make appropriate



DD16

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2 enquiries to assist you if I can.

3 MR. SHANAHAN: Volume 10 of the
4 preliminary, the doctor who actually took the tissue,
5 he was provided with the body by the police and the
6 doctor who took the tissue actually described how
7 he took it, but he didn't say anything about being
8 asked whether he in fact checked for a blocked shunt
9 or whether the body was in a state were he could have.
10 Actually I gather from inference from there and
11 other witnesses we have seen as Mr. Young said it
12 was beyond the state of really saying the shunt
13 was blocked or occluded or not.

14 THE COMMISSIONER: Well, we know who
15 the doctor is and we can always ask him I suppose,
16 can we not?

17 MR. YOUNG: Sir, it is my understanding
18 that it was Dr. Noble at the Scarborough Centennary
19 Hospital, but perhaps we could make some further
20 investigation and get back to you.

21 THE COMMISSIONER: Yes, I remember
22 being worried about this problem about six months
23 ago and speaking to somebody and perhaps speaking
24 here and we don't seemed to have progressed. It is
25 easy enough - couldn't it be done then we can put
that to rest.



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TORONTO. ONTARIO

Bucci, dr. ex.
(Cronk)

2207

DD17

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MR. YOUNG: I think that might be the
case, but I do think it might be worthwhile to
pursue it and get an answer one way or another.

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THE COMMISSIONER: Well, who is going to do that?

MS. CRONK: I will make further enquiries, sir.

THE COMMISSIONER: Will you do that?

MS. CRONK: I will.

THE COMMISSIONER: Yes, all right, Miss McIntyre.

MS. MCINTYRE: Thank you, sir.

EXAMINATION BY MS. MCINTYRE:

Q. Mrs. Bucci, with respect to Stephanie Lombardo do you recall which bed in Room 418 this baby was in?

A. Yes, she was in an isolette and it was positioned in the middle of the right hand side under the nursing station windows.

Q. Under the windows?

A. Yes.

Q. Do you recall what the lighting in the room was that night?

A. It was dark only because when the arrest occurred and when she was found in distress I remember the lights being turned on, it was much brighter at that time.

Q. So, when you went into the



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room with Mrs. Trayner the lights were dimmed?

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A. That's right.

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MR. SHANAHAN: If this witness wasn't there when it was heard, that's really beyond this witness.

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MS. MCINTYRE: This witness indicated that she heard laboured breathing from the Lombardo child when she went into the room, as I understood it.

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A. Not heard but seen.

Q. You saw?

A. Yes.

Q. And my question to you was, was it such that you would have heard it from the doorway or would you be able to observe that from the doorway?

A. As I say, she was in an isolette, so, most likely you would not have heard them but seen them.

Q. Okay. The point is, would



1
2 someone have, walking down the hall, been able to
3 observe that this baby was in distress or would you
4 actually have to go into the room to observe her?

5 A. I think the position that
6 she was in you could see her from the hallway.

7 THE COMMISSIONER: That doesn't quite
8 answer the question, would you have been able to
9 observe that she was in distress from the hallway?

10 THE WITNESS: Yes.

11 MS. MCINTYRE: Q. Now, Mrs. Bucci,
12 you worked on 4A throughout the epidemic period that
13 this Commission is concerned with, is that right?

14 A. Yes.

15 Q. And you have helped me prepare
16 a review of your tours of duty with respect to those
17 28 children with which this Commission is particularly
18 interested, is that right?

19 A. Yes.

20 Q. And you have a copy of that
21 there?

22 A. Yes, I do.

23 MS. MCINTYRE: I would like to submit
24 this as an exhibit.

25 Q. Does this accurately set out
your schedule with respect to the days surrounding



1

2

the deaths of the 28 children?

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A. Yes.

4

THE COMMISSIONER: Did I hear you
say 28?

5

MS. MCINTYRE: Yes.

6

THE COMMISSIONER: Have we left one
off because we had 29 of them.

7

8

MS. MCINTYRE: This is prepared from
this same list that Commission Counsel prepared.
I believe it is 29, actually.

9

10

THE COMMISSIONER: 29, yes.

11

12

MS. MCINTYRE: Thank you, Mr.
Commissioner.

13

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THE COMMISSIONER: That will be
Exhibit 407.

15

---EXHIBIT NO. 407: Schedule of Gloria Bucci
concerning 29 deaths.

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MR. YOUNG: I have a bit of a problem
with this, I don't have the memo in front of me that
Miss Cronk sent around but my recollection was that
we were here today to cross-examine this witness on
Baby Lombardo. Now, here we have evidence, granted
through the exhibit, that says she has no recollection
of various babies or she was on or she wasn't on.
I don't see that this is --

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THE COMMISSIONER: It wasn't the object in bringing her here but you may have something you want to tell us about. I see Mr. Labow standing up and he's probably got one of his --

MR. LABOW: Mr. Commissioner, I may as well tell you now that I have told my friend that I intend to cross-examine this witness on at least two other children.

THE COMMISSIONER: Yes, all right.

MS. MCINTYRE: Mr. Commissioner, I understood from Commission Counsel that while she was only going to cross-examine with respect to the Lombardo baby that other counsel were not going to be precluded from questioning about the other babies.

THE COMMISSIONER: They weren't going to be encouraged, I can tell you that.

MS. MCINTYRE: I understood that as well, sir. I actually prepared this in the hope of being of some assistance and I don't intend to spend long on it myself.

THE COMMISSIONER: No, all right. Well, that's fine, we will fight with Mr. Labow in due course.

MS. MCINTYRE: Thank you.

Q. I take it with respect to



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the children on this list that the Lombardo baby was the only child for whom you were actually on shift when the death occurred?

A. Yes.

Q. In case of Adamo who died at the shift change, I believe you may have been there at the very end stages of the arrest procedure, is that right?

A. Yes.

THE COMMISSIONER: I am sorry, at the end stages?

MS. McINTYRE: Yes.

THE COMMISSIONER: At the beginning of your shift. Is that the beginning of your shift when the baby died?

THE WITNESS: Yes.

THE COMMISSIONER: All right.

MS. McINTYRE: Q. However, it would seem from looking at this chart that you were frequently on the day shift preceding the night of the baby's death, is that right?

A. That's right.

Q. In fact, I counted 19 out of the 29 cases when that occurred?

A. That's right.



Bucci, ex.
(McIntyre)

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Q. And is that because your team, headed by Ms. Mandal, was routinely scheduled to work prior to the Trayner team?

A. That's right.

Q. So, between the two teams you would be covering the same 24 hour period?

A. That's right.

Q. So, you would be frequently reporting to the Trayner team and they would be reporting back to you?

A. That's correct.

Q. During the epidemic period --

THE COMMISSIONER: Miss McIntyre, we are going to take a break some time, is this convenient?

MS. MCINTYRE: Certainly.

THE COMMISSIONER: Yes, all right, we will take 20 minutes then.

---Short recess.

---On resuming.

THE COMMISSIONER: I think you can just go ahead.

MS. MCINTYRE: I can go ahead?

THE COMMISSIONER: I think so.



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MS. McINTYRE: I don't want Eleanor
to get angry at me. Here she is now.

3

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Q. Mrs. Bucci, you told us that
you were frequently working the day shift prior to the
deaths of many of these children. Were you made
aware of the deaths during the period in question
at the time?

6

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A. At the time, I don't under-
stand.

10

11

Q. When you came back on duty
would you have been made aware that a particular
child had died?

12

13

A. Yes.

14

15

Q. Were you concerned at the time
as to the number of deaths that were occurring on the
Ward?

16

17

A. Yes, I was.

18

19

Q. And why were you concerned?

20

A. There were many deaths
occurring in a short period of time when I was
working there and I thought that it was a more
positive place to work.

21

22

Q. More positive than what?

23

24

A. More positive, more babies
dying after let's say cardiac arrest and they were

25



Bucci, ex.
(McIntyre)

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all failed arrests as far as I can relate to the
time that I was working there.

3

4

Q. You said more positive, you

5

mean that the oncology unit in which you had been
working at the Toronto General?

6

7

A. Yes, where the prognosis of

8

an oncology patient, most often the end result is
death and with a cardiology patient I thought they
usually went home, you know, were better after the
treatment in the Hospital.

10

11

Q. So, you anticipated when

12

you came to work at Sick Children's Hospital that
you wouldn't encounter as much death, is that fair?

13

A. That's right.

14

Q. And that's not the way it

15

turned out?

16

A. That's right.

17

Q. Did you realize that the

18

deaths were occurring on the night shift with the
Trayner team at some point during that nine month
period?

19

20

A. Yes.

21

Q. Do you recall when you became

22

aware of that?

23

A. I thought it was around the

24

25



1
2 time that Mrs. Trayner was married and she came back
3 from her vacation, that there was an arrest the night
4 that she came back and we did talk about it and it
5 just seemed to be too frequently, it happened too
6 frequently to her team.

10 Q. That was in the fall of 1980?

7 A. Yes.

8 Q. And did you have any explanation
9 at the time as to why the deaths were occurring with
10 the Trayner team?

11 A. No.

12 Q. Did you have any suspicions
13 at any time during the nine months that there was
14 something unusual going on?

14 A. No, I didn't.

15 Q. What was the work load like
16 generally on 4A during that period of time that you
17 worked there?

18 A. I thought it to be quite
19 heavy.

20 Q. You described the night that
21 the Lombardo child died. Was that a typical night
22 on the ward?

22 A. No, it was unusually slow.

23 Q. Did you find that the work
24
25



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load was more than you would have liked?

3

A. Not that night.

4

Q. Generally speaking, did you
find the work load to be heavy?

5

A. Yes.

6

7

Q. Was that with respect to the
number of patients that were assigned to you?

8

9

A. The number as well as the
type of patient.

10

11

Q. Did you have difficulty in
coping with the work load on 4A?

12

A. At times, yes.

13

14

Q. Was that something that
was of concern to other members on your team?

15

16

A. We did speak about it amongst
each other.

17

18

Q. Did you discuss your concerns
with your team leader, that would have been Marie
Mandal?

19

20

A. Yes, we just spoke about it
as friends would speak about problems they were
having.

21

22

Q. And do you recall if it was
raised with your head nurse Liz Radojewski?

23

24

25

A. I don't ever remember speaking



Bucci, ex.
(McIntyre)

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to her about it, no.

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Q. Okay. Now, briefly with respect to Janice Estrella, Mrs. Bucci, you worked on January 9th and January 10th long days and you had constant care of the Estrella child?

8

A. That's right.

9

10

11

Q. And the child died on the night shift following January 10th, is that right?

12

A. That's right.

13

14

15

16

Q. You have reviewed your progress notes with respect to this child?

17

A. Yes, I have.

18

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Q. And do you have an independent recollection of her?

A. Yes, I do.

Q. What was her general condition on January 9th?

A. Janice was a sick baby, although, she was stable the Friday.

THE COMMISSIONER: The Friday, Friday --

MS. McINTYRE: Is that the 9th?

A. The 9th, yes.

Q. Yes.

A. She was on intravenous fluids, she was isolated, on constant care, she was



1
2 fed by a nasogastric tube, she had a very poor
3 feeding reflex.

4 Q. Were you concerned about her
5 condition on that day?

6 A. Not concerned, she was sick
7 and she had been that way for some time.

13 8 Q. What about the 10th, was there
9 any change in her condition that you can recall on
10 the 10th of January?

11 A. The only change there
12 was her temperature, she became quite feverish
13 throughout that day.

14 Q. And did you have difficulty
15 in controlling her temperature during the day?

16 A. It did go up and down and
17 I medicated her, I sponged her but it did go up as
18 I say and then come down with the treatment that I
19 gave her.

20 Q. And were you concerned
21 about her condition when you left on the 10th?

22 A. Not concerned. Again, if
23 she was the same, let's say her temperature had
24 finally dropped and stayed down for a while but she
25 was the same as she was the night before.

Q. And when would you have found



1
2 out that Janice Estrella died?

3 A. The next morning, the 11th.

4 Q. Were you surprised to learn
5 that she died?

6 A. Not surprised, no.

7 Q. Can you explain that?

8 A. Well, as I say, she was a
9 sick baby and she had been sick for quite some time.

10 MS. MCINTYRE: Thank you, I have no
11 further questions.

12 THE COMMISSIONER: Yes, thank you,
13 Miss McIntyre. Mr. Shanahan, what is your position,
14 what is the call of the Provincial Court tomorrow
15 morning?

16 MR. SHANAHAN: Well, I --

17 THE COMMISSIONER: Don't answer that
18 question if you don't want to.

19 MR. SHANAHAN: I have no qualms about
20 that. But I am just suggesting, sir, that really
21 perhaps for the Commission to utilize time if I go
22 through with Mrs. Bucci then maybe I will have less
23 questions. But perhaps I could go on now.

24 THE COMMISSIONER: Well, does anybody
25 else have any objections to that? All right then,
Mr. Shanahan, let's hear from you.



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CROSS-EXAMINATION BY MR. SHANAHAN:

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Q Before I start out, Mrs. Bucci,
reading the transcript here of the preliminary the
date of your marriage was actually in there and today
actually is your anniversary, is that right?

A Yes.

Q I wish you a happy anniversary.

THE COMMISSIONER: It's a rotten
present to be given.

MR. SHANAHAN: Q We come to, Mrs. Bucci,
with respect to the condition that you found
Stephanie Lombardo in and in fact your notes were
there. If I could turn you to her medical record
which I think you have in front of you?

A Yes.

Q You had them given to you
earlier. At page 40, there are the notes of Miss
Mandal who I take it was your team leader in the
normal course of events, is that right?

A Right.

Q In fact as her note there
really picks up, if you like, or starts off the thing
that continued on for a large part of your shift
about young Lombardo's condition. First of all under
"colour" it indicated that she was "pink and 40% O2",



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that is oxygen:

"There is no change in colour
when out of the oxygen."

And I sort of gathered that it was therefore, the
oxygen was now discontinued?

A. Yes.

Q. So Miss Mandal had made that
decision herself to discontinue the oxygen?

A. Yes.

Q. You have got here, dropping down --

THE COMMISSIONER: Did you want to
add something to that?

THE WITNESS: No, I was just wondering
if it was the doctor's orders to discontinue it.

MR. SHANAHAN: Q. In any event the
oxygen was discontinued?

A. Yes.

Q. And under "chest" it is a
little unclear on mine, but it seems to be that:

"Air entry throughout. Noisy upper
lobes."

Under "nutrition" it says:

"Taking formula well."

Under I think it is "output" -

"Voiding adequate amounts. Heparin



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"infusing on the Sage pump at 1 cc
per hour into cut-down in right leg."

Have I got that right?

A. Right.

Q. "Parents - both in today, held
babe, fed babe, concerned, asked lots
of questions, generally pleased with
progress."

It seemed to be that they obviously perceived as well,
or were informed that the child was progressing
through that day shift?

A. Right.

Q. In terms of when you would come
on and take care of Stephanie Lombardo, some of the
things that might indicate to you that she was stable
(a) would be Nurse Mandal's note which you would see
there?

A. Yes.

Q. You would speak to, in the
normal course, you would speak to Nurse Mandal, I
mean you would know her, you would be friends with
her and work with her?

A. Yes.

Q. And you might check up on how
was that baby that I am in fact taking over?



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A. Yes.

Q. And there was nothing that you recollect now that in any way suggested to you then that Baby Lombardo was at any risk, or unduly ill?

A. That's right.

Q. As well as that she didn't have a nasogastric tube, she was clearly feeding orally?

A. That's right.

Q. So that would indicate that when she is taking the bottle and taking the formula that she is able to suck on it without undue breathing difficulties?

A. Right.

Q. She doesn't have a monitor on, which might check and see whether she is having arrhythmias or things of that nature and give you an alarm on a buzzer?

A. Correct.

Q. And it doesn't, as we have just seen here, even have the assistance of an oxygen mask she is breathing room air?

A. Right.

Q. As well as that too, in terms of looking over her medication, you see she was only on heparin, the blood thinner. Some of these children



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we have seen here as they have various difficulties, sepsis, and they have gentamicin and Lasix and things like that, so you could see right off this young child really has very little in the way of medication, just on heparin?

A. Right.

Q. And that too would be some sign that she was reasonably stable?

A. Right.

Q. We have heard about sometimes the practice that may have developed informally to the effect that children that were perceived to be at some kind of risk at times may even have had their resuscitation drugs, or certain drugs even right there sort of sitting on the tray ready to go; nothing like this with Lombardo?

A. No.

Q. I think Ms. McIntyre would prefer that I introduce myself formally. Shanahan is the name and Lombardo is the baby.

MS. MCINTYRE: Thank you.

MR. SHANAHAN: Q. I am sure you knew, the note travelled over here. In terms of dealing with Lombardo as well, we have heard sometimes the suggestion, and you have picked up on it here today



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that at times 4A was hectic and it was busy?

A. Yes.

Q. No question here that with the reduced population, the babies, not only were they reasonably stable babies but surely with two of you eight babies was not really overloading you?

A. That's right.

Q. It was not a hectic night and there were not other parents in, and I think you said that at the preliminary, on that night?

A. That's right.

Q. Actually as well as that, not only was the whole ward quiet, but it struck me as between 4A and 4B really even in terms of staff the bodies are over on the 4B side?

A. That's right.

Q. Just yourself and Phyllis Trayner on 4A?

A. Yes.

Q. You indicated to me that you were feeding the child, and I think the note indicated that the child fed well, and I think an expression that was used was that the child fed eagerly?

A. Right.

Q. I think you indicated that the



FF. 7

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net effect of the examination this morning was it
would appear she should have been fed every three
hours and in all likelihood you did feed her?

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A. Yes.

6

Q. Would you go in of your own
accord, or would you hear the child cry out?

7

8

A. I would go in out of my own
accord.

9

10

11

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Q. And I take it on each occasion
what you would do is roughly in that three-hour stretch
you would feed the child, perhaps change her if
required?

13

A. Yes.

14

Q. And then get her back into her
crib to go to sleep?

15

A. Yes.

16

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Q. I would suggest to you that you
gave that process about a five-minute lapse there,
but I would suggest to you that in fact the whole
procedure getting her up and perhaps changing her,
feeding her, and then getting her back in may well
stretch closer to 10 or 15 minutes?

22

A. Oh, yes.

23

Q. If you were to take a break
that night I suggest to you that none of the children

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FF.8

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and Lombardo were on constant or shared care?

3

A. Yes.

4

5

Q. If you were to take a break you really were free to take them as and when you decide?

6

A. That's right.

7

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Q. And as well as that on that particular occasion, without any criticism, meant you could if you liked after your duties were finished with these children really have gone back to the nursing station and sat down as you liked?

11

A. Right.

12

13

Q. And the children, the kiddies were asleep and you had a toddler section who at that age may well sleep through the whole night?

14

15

A. Yes.

16

Q. And not require any feeding?

17

A. Right.

18

19

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Q. And the section there on 418, other than those duties that you had to do, and you had no other medication to give to Lombardo, you could well have sat at the nursing station and read yourself a book?

21

22

A. Right.

(2)

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Q. You indicated from the positioning



FF.9

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of the room and where you were in the nursing station
you could not see Stephanie Lombardo or her bed?

4

A. No.

5

6

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Q I took it that was a function
of where you were placed in the nursing station and
the fact that the lights were out or dimmed in the
room itself?

8

9

10

A. Well that's true, but also the
bed is lower than the windows, so I would not have
seen her.

11

12

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Q I don't think you have any
specific recollection of whether the windows, the
screens or the blinds were pulled up or not?

14

15

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A. I do remember the screens being
open. During the arrest, while I was in there with
Stephanie, as I say my friend was visiting and she
did wave goodbye as she left and I do recall her
doing that.

18

19

Q So in the window itself you
think that was open?

20

A. The shades were pulled open.

21

22

Q The reason you say you couldn't
see it was because the bed was a lot lower than that
window itself?

23

24

25

A. Yes.



FF.10

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Q And the light was dim?

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A Yes.

4

Q Again I think you took her vital signs at 8 o'clock and at midnight?

5

A That's right.

6

7

Q If there was any difficulty with those vital signs you would have taken her condition as indicated by the vital signs, you would have taken her vital signs a lot more?

8

9

10

A That's true.

11

12

Q And if there was any difficulty as well of course you could have and would have called the doctor in to take another look at the child?

13

14

A Yes.

15

16

17

Q In any event we get down to the feeding at 3 o'clock and you were able to give us that precise time it was around three give or take, because a friend of yours came down to visit you?

18

A That's right.

19

20

Q And you fed the child and put her back and there was no difficulty at the 3 o'clock time?

21

22

A Right.

23

24

25

Q And then Phyllis Trayner comes out sort of to the, as I gather the front of the



FF.11

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nursing station and thereabouts and calls you to come quickly?

3

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A. Yes.

5

6

Q. I would suggest to you that in fact Phyllis calling to you then and telling you to come quickly, did she say it was Lombardo she meant?

7

8

A. Yes.

9

Q. That that right away surprised you?

10

11

A. Yes.

12

13

Q. In the normal course there Phyllis Trayner would have no particular reason to go into, particular reason to go into 418 as she wasn't looking after any of those babies?

14

15

A. Well she was team leader so she had a responsibility for all the babies.

16

17

Q. A responsibility for all, as she was doing I take it hourly rounds?

18

19

A. Most likely.

20

21

Q. But apart from that, not as large a part I agree, that she would have no reason necessarily to be in there giving medications or feeding them or particularly checking them?

22

23

A. That's right.

24

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Q. They were sound asleep and there



FF.12

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would be no particular reason to go in?

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A. Yes.

4

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Q. About the feeding by the way; is it not true, ma'am, that that was a special formula prepared in the Hospital?

6

A. Right.

7

8

Q. As well as that the name of Stephanie Lombardo would be right on that bottle?

9

A. Yes.

10

11

12

13

Q. And you would go and get that bottle not from where in the normal course formula was kept for babies. I think as you indicated at the preliminary those specially prepared bottles were kept --

14

A. In the refrigerator in the pantry.

15

Q. In the pantry?

16

A. Yes.

17

Q. I may have missed something.

18

That pantry would be where in relation to Room 418?

19

20

A. Right across, it's in the utility room, it's right across from 418, it is right next door.

21

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Q. So you indicated then that Phyllis Trayner called you and you went in to see the child and the child was in obvious distress?



FF.13

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A. Yes.

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Q. In fact then the child really

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slips from there downwards and deteriorates to a full
arrest and then eventually dies.

5

A. Right.

6

Q. In that resuscitation attempt

7

too there was no suggestion that the child was in
any way coming back or recovering?

8

9

A. No.

10

Q. The child just seemed to slide

11

deeper and deeper?

12

A. That's right.

13

Q. You said it surprised you because

14

you felt that perhaps you had even missed something?

15

A. Yes.

16

Q. Had you ever before in the short

17

time that you were there, had you ever participated
in an arrest before?

18

A. No, not to the extent that I

19

did with this one.

20

Q. Had you been present and

21

perhaps --

22

A. Yes.

23

Q. Perhaps what I am getting at

24

at an arrest.

25



FF.14

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2

A. Yes.

3

Q. And that would be a cardiac

4

with a child?

5

A. Right.

6

Q. Had they been successful?

7

A. No.

8

Q. And was there just the one, or

were there others?

9

A. The one that I can recall only,

10

yes.

11

Q. You did indicate to Ms. McIntyre

12

that you were aware of the fact here, you had picked

13

up on your team, the Mandal team I will call it, had

14

picked up on the fact that there was an increase in

15

deaths on the night shift and there on the night shift

with respect to the Trayner team?

16

A. Yes.

17

Q. Did it cause you any trepidation

18

as you realized that you were going up to work the

19

night shift there, and you were going up not just

20

with the Trayner team, but as you got there you

21

realized it was Phyllis Trayner just herself. Were

22

you concerned that you might be taken as what we have

heard a jinx or bad luck?

23

A. I never thought about it that way.

24

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FF.15

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Q But then subsequently when that night ended with the very sudden death and the surprising death to you of Stephanie Lombardo, were you then feeling that perhaps you were being sucked into this bad luck, this jinx, this coincidence that was marking the Trayner team?

A I felt that way only after Susan had been arrested.

Q And not after Stephanie Lombardo's death?

A No, not after the death.

Q You never worked again the night shift with Phyllis Trayner, did you?

A No.

Q And was that by design or by accident?

A Working with her that night?

A Yes, at night.

THE COMMISSIONER: Not working with her afterwards?

THE WITNESS: Pardon me?

THE COMMISSIONER: The question was the fact that you did not work afterwards, was that an accident or did you arrange it?

THE WITNESS: It was an accident, yes.



FF.16

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MR. SHANAHAN: Q Just purely
coincidental?

A Right.

MR. ROLAND: I don't know if it is
entirely an accident, she is on a different team and
these nurses are assigned by teams.

THE COMMISSIONER: Right, but there
are some --

MR. ROLAND: It is not entirely an
accident, it is perhaps the way it is scheduled, this
nurse's schedule is on a different team and a different
location.

THE COMMISSIONER: I think the important
thing is that she didn't ask not to be on that team
that really was the purport of your question, was it
not?

MR. SHANAHAN: That's right.

Q Is that how you understood it?

A That's how I understood it.

Q And you did not ask not to be
on that team again?

A That's right.

Q The death of Lombardo you said
you thought you might have missed something, but later
when you got an explanation about an occluded shunt



FF.17

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that really you were satisfied and it put your mind
at ease?

A. Yes.

Q. You don't know who told you that
though about the occluded shunt?

A. I can't remember.

Q. You don't know when you were
told that?

A. No.

Q. You would have learned that too,
long before you would have heard subsequently that in
fact Stephanie Lombardo was found with digoxin in her?

A. Yes.

Q. Would you have known then,
ma'am, with your experience, that in fact Stephanie
Lombardo, not just that she wasn't prescribed digoxin,
but that given her condition Stephanie Lombardo,
really that drug was contra-indicated?

A. No, I didn't know that.

Q. You just know simply that she
was not to get it?

A. Yes.

Q. You indicated at the preliminary
and I think here today, that both heparin and digoxin
are clear liquids, if you like?



FF.18

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A. Yes.

3

Q. Both come in an ampule?

4

A. Right.

5

Q. And then again you said at the

6

preliminary and you conceded today that they simply
have different names and those names and labels are
clearly on the ampules?

8

A. Yes.

9

Q. As well as that Miss Cronk has

10

pointed out too the manner of distribution here of
the two drugs are really distinctly different?

11

12

A. Yes.

13

Q. Heparin has its own little

14

routine from one syringe into a larger syringe and
mixed with IV fluid and put there with a Sage pump?

15

A. In that manner of administering,
yes.

16

17

Q. That was the manner that

18

Lombardo was. Really even in how you dispensed them
they were completely different, weren't they?

19

20

A. Yes.

21

Q. You said as well they were

double checked and double signed?

22

A. Right.

23

Q. So not only would you have had

24

25



FF.19

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to make a mistake another nurse would have had to
have been with you and also make a mistake?

3

4

A. That's right.

5

6

Q. You indicated they were both
in the same cupboard, did I get that?

7

8

A. Yes.

9

10

Q. But in fairness they would be
on different shelves?

11

12

A. Yes, they were listed

alphabetically.

13

14

Q. Listed alphabetically?

A. Yes.

15

16

17

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Q. And therefore would there be a
drug conceivably from every letter from "D" in digoxin
to "H" for heparin?

A. Right.



GG
EMT/cr

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Q. So they would be in separate areas of the cabinet as well?

A. Yes.

Q. I don't want you to mention the name of the other child, but I am going to suggest to you the other child in that room was a baby girl who was a lot older than Stephanie Lombardo. A baby girl somewhere around the two year mark. Do you remember that?

A.. I don't remember.

Q. Do you remember if that child was on either heparin or digoxin?

A. No, I don't remember.

Q. It could well be that digoxin had no reason to even come in that room if that child too wasn't on digoxin?

A. That is right.

Q. Have you ever made a mistake yourself between heparin and digoxin?

A. Not that I can think of.

Q. Not that you know of?

A. Not that I know of.

Q. Both are very, I take it, very serious drugs. It is not like missing an extra dose of something like gentamicin. Either one of



1

2

them can kill.

3

A. That's right.

4

Q. All right. Digoxin has we

2

5

have heard has features, but heparin too has its

6

own sheet, its own instructions, and it is something

7

that you have to be very careful with?

8

A. That is right.

9

Q. All right. About the sage

10

pump, the sage pump would put in a small dose very

11

slowly over a long period of time. Isn't that right?

12

A. That is right.

13

Q. All right. And I would have

14

thought, but I think I am wrong here, that if you

15

put in prescribed or not prescribed another drug

16

like digoxin it might infuse very slowly?

17

A. Yes.

18

Q. But I understand that in

19

fact you can bypass if you like that pumping effect

20

and could get the digoxin right into the IV line

21

without the effect of slowing down the infusion?

22

A. That's right.

23

Q. All right. So that if you

24

had a rush dose of gentamicin and you didn't want it

25

to be infusing over an eight hour period, in fact

what you could do you could put it in the IV line



1

2

so that it would not be affected by the pump?

3

A. That is right.

4

Q. And the same would go for

5

digoxin?

6

A. That is right.

7

THE COMMISSIONER: You could, but you

8

wouldn't?

9

THE WITNESS: Correct.

10

THE COMMISSIONER: It is only doctors

11

who can --

12

THE WITNESS: Digoxin, yes.

13

THE COMMISSIONER: Digoxin, but with

14

heparin --

15

THE WITNESS: Heparin would not be

16

given as a bolus, let's say.

17

THE COMMISSIONER: No.

18

THE WITNESS: Only as a slow infusion.

19

MR. SHANAHAN: Q. What I was getting at,

20

though the IV line there is distinctly different
from the IV line that might be giving a child any
other kinds of medication, it has got a sage pump?

21

A. Yes.

22

Q. So the IV apparatus is

23

slightly different?

24

A. That is right.

25



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Q. All right. But as you are

3

telling me if you had a large dose, a large dose

4

or a bolus dose of gentamicin, or if you want to

5

give a bolus dose of digoxin you could inject it

6

into that IV line as a push and it would not be

7

slowed up by the effect of the sage pump?

8

A. That is right.

9

Q. I would suggest to you that

10

after the death of Stephanie Lombardo that in fact

11

Phyllis Trayner not upset and disturbed, but to the

contrary, Phyllis appeared to be calm?

12

A. Yes.

13

Q. All right. Did that surprise

you?

14

A. No.

15

Q. All right. Had you ever had

16

a child die around Christmas time on you?

17

A. Not a child, no.

18

Q. You knew from the age of

19

this child that as the parents came in - a simple

20

deduction here - a nine day old child, that the
have

21

mother herself would only/just given birth and may

22

well have only just been discharged from a hospital
herself?

23

A. Yes.

24

25



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Q. You knew it was a death very near Christmas time, so as well as that you could clearly anticipate this was going to be a very distressing event when they arrived on the ward?

6

A. Yes.

7

8

Q. I suggest to you that you didn't speak to the Lombardos then when they came in?

9

A. No, I hadn't.

10

11

12

13

Q. And I suggest to you as well it became apparent to you that Phyllis Trayner - you described her as calm, but as well as that she did not spend any time with the Lombardos other than just showing them the baby?

14

15

A. That is as much as I can remember.

16

17

Q. All right. It is Phyllis Trayner that in fact takes this baby down to the morgue?

18

A. I don't remember.

19

20

21

22

Q. I suggest to you that in the notes and the statement you gave to I think it is Sergeant Press, you indicated in fact she did take the baby down to the morgue?

23

24

25

A. I thought I said I think she took him, the baby down.



1

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Q. Do you still think she took

3

the baby down?

4

A. I know that I didn't.

5

Q. You didn't?

6

A. No.

7

Q. So as well as that it was

8

Phyllis Trayner - there is, ma'am, in there a death
check list.

9

A. Yes.

10

Q. Which a nurse fills out that

11

she has discussed with the parents about an autopsy
and whether they refuse or will grant it. That too
was obviously completed by Nurse Phyllis Trayner.

13

Her signature is there. You didn't do that?

14

A. No.

15

Q. Really on that evening

16

after the death you were in the background; is that
fair?

17

A. Right.

18

Q. And yet, ma'am, you remember

19

this occasion; you remember this death and you
remember that I might say quite clearly.

20

21

A. Yes.

22

Q. All the circumstances

23

surrounding it were such that it was a death that

24

25



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stuck in your mind?

3

A. Yes.

4

Q. Does it surprise you, or

5

let's put it this way, was there any protocol here

6

if you like as to who would meet the parents and sort

7

of tell them that the child had gone off, the child

8

had deteriorated and died; perhaps conjecture then

9

with the parents then as to why the child might have

10

A. Not that I knew of. It was

11

just whoever was most comfortable doing it and perhaps

12

the doctor would accompany a nurse.

13

Q. All right. You didn't do

14

it?

15

A. No.

16

Q. And Phyllis Trayner didn't

do it?

17

A. I don't know that.

18

Q. All right. I am going to

19

suggest to you that in fact a 4B nurse by the name

20

of Karen Power came over from 4B and that really

21

Karen Power spent most of the rest of the evening

22

after the death with the parents. And in fact go so

23

far as to locate a priest and bring a priest up to

24

the ward.

25



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A. I learned that later, yes.

3

4

5

6

Q. Did it surprise you - you had your reasons, but would it surprise you that Phyllis Trayner as team leader wasn't in there in some way, shape or form discussing with them what might have happened with the child?

7

A. I don't know.

8

9

10

11

Q. You were surprised she was calm. Phyllis Trayner has said that after deaths in this time period she asked questions, that she was concerned --

12

MR. STRATHY: She said she was not surprised that Mrs. Trayner was calm.

13

THE COMMISSIONER: Yes.

14

15

16

17

18

MR. SHANAHAN: Q. At this point in time Phyllis Trayner has given us evidence that she as team leader perceived her function to at times speak to the doctors and seek reasons and causes as to why this child or these children might have died.

19

20

Did you see or hear Phyllis Trayner in your presence ask anybody as to what happened here with Lombardo?

21

A. I don't remember.

22

Q. You don't remember?

23

A. No.

24

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Q. You don't remember any
conversation?

A. One way or the other.

Q. With the doctors?

A. No.

Q. You said that the doctors
that arrived were Dr. Halpern and Dr. Brand I think
it was. Did any one of them have a moustache, do
you remember?

A. I just know that one was tall
and one was short.

Q. One was tall and one was
short; moustaches you don't know about?

A. No.

Q. Do you remember if one of
those doctors, moustache or not, cut down the IV
bag, put the IV bag in his pocket and left with it?

A. I didn't know that.

Q. You didn't? I am not saying
it happened with Lombardo.

A. No.

Q. Do you know whether it did?

A. No, I don't.

Q. The Lombardos phoned that
night, didn't they?



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A. Yes.

3

4

Q. They phoned in fact before the child had died? They phoned about 11 I would say?

5

6

A. Approximately. I think before 11.

7

8

9

10

Q. All right. That wasn't unusual? The Hospital encouraged that parents and nurses would become familiar and there were open lines of communication about the children's condition?

11

A. Yes.

12

13

14

Q. It appears from Nurse Mandal that there had been discussions and the parents were asking a lot of questions and pleased with the progress and they phoned you - one did anyway.

15

A. Yes.

16

17

18

19

Q. And you told them essentially I take it what is written in the nursing note, that the child was doing well, feeding well and sleeping and there was no difficulty?

20

A. Yes.

21

Q. Is that right?

22

A. Yes.

23

24

25

Q. You spoke to them as well later long after the death. Did they not contact



Bucci, cr.ex.
(Shanahan)

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you and wish to speak with you about the cause of
death of death of the child?

A. Oh, yes. Long after.

Q. All right, long after.

And for reasons, your own reasons at the time you
preferred not to discuss it really with them?

A. Yes.

Q. All right. One final area:
you indicated, ma'am, to Miss McIntyre that you
felt that the condition you observed in Stephanie
Lombardo when you came back at Phyllis' request,
you felt that Phyllis could have heard or seen that,
and perhaps you can clarify when I finish the
question, heard or seen that from the hallway?

A. Yes.

Q. Well, first of all, let's
be clear. You weren't in the hallway when Phyllis
was there hearing or seeing anything?

A. No.

Q. When you arrived it is at
least seconds or minutes later and you see what you
observed in Stephanie Lombardo?

A. Yes.

Q. All right. The lights
are dim in there; am I right?



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A. Yes.

3

Q. And the child is reasonably

4

low down in an isolette?

5

A. Yes.

6

Q. There is no monitor to give
you any warning sign?

7

A. That is right.

8

Q. All right. And Phyllis

9

Trayner would have for whatever reasons been somewhere

10

in that hall walking by?

11

A. Right.

12

Q. I take it that the condition

13

you found her in as I understand the language that

14

you thought Phyllis Trayner could have seen the baby

15

in distress, or was it that she could have heard the
baby in distress, that you thought?

16

A. I thought perhaps she saw

17

the baby.

18

Q. You thought perhaps she

19

saw the baby?

20

A. Right.

21

Q. And what may I ask (a) would

22

she be able to see? Let's assume the lights were

23

on and she was standing over the bed. What was

24

there to see for a moment?

25



13

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A. She would see the baby's

3

breathing quite laboured. Even though the lights

4

were dim you can still pick up colour on babies

5

either dark colour or normal colour.

6

Q. I was just going to say

7

that.

8

A. Yes.

9

Q. I didn't think if there was

10

arrhythmia you would see them without the assistance
of a monitor or being very close by with a stethoscope?

11

A. That's right.

12

Q. I was going to suggest to

13

you that if there were variations in colour, ma'am,

14

black and white, but variations in colour that in

15

fairness you wouldn't see that from the hallway and
with the lights being dimly lit. I was going to put

16

that to you.

17

A. Mm-mm.

18

Q. Am I right there?

19

A. You might possibly see a

20

dark or a light shade.

21

Q. All right. You really I

22

suggest to you have to be concentrating. You really

23

have to anticipate, "I had really better keep an

24

eye out there for something or for that child", and

25



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I would not submit to you that Lombardo's condition that night, especially with you being the nurse in charge obviously not concerned would warrant that kind of close attention.

5

A. Yes.

6

7

Q. All right. So she wouldn't see arrhythmias. She wouldn't see the colour change that you thought that the breathing, the chest movement might have attracted her attention?

9

10

A. Yes.

11

12

Q. I see. And certainly that chest movement would not emit any sound, rasping or coughing or anything like that? That would not occur in a child?

13

14

A. From an isolette, no, if it is closed properly.

15

16

17

Q. If an isolette is closed really from a sound point of view you shouldn't hear anything?

18

19

A. I shouldn't say that. You could possibly hear some sounds.

20

21

Q. I suggest you could hear a baby that was crying?

22

23

A. Yes.

24

Q. You hear that all too often,

25



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but I suggest to you that just simply raspy breathing if it was occurring I suggest you wouldn't hear that out in the hallway if a child was in a closed isolette?

A. Right.

Q. So you are thinking the thing that could have attracted her attention was the movement on the chest of the child Lombardo?

A. Yes.

MR. SHANAHAN: Your indulgence, Mr. Commissioner?

Thank you, Mr. Commissioner.

THE COMMISSIONER: Yes, all right, thank you, Mr. Shanahan.

Well, obviously there is more cross-examination so we will just rise - do you want to take a poll?

MS. CRONK: Sir, it would be helpful if we could get estimates from other counsel.

THE COMMISSIONER: Mr. Brown?

MR. BROWN: Five minutes, sir.

THE COMMISSIONER: Mr. Strathy?

MR. STRATHY: About half an hour, sir.

MS. CECCHETTO: Mr. Hunt will be approximately a half hour.



1

THE COMMISSIONER: Mr. Young?

2

MR. YOUNG: I should be no more than

3

ten minutes, sir.

4

THE COMMISSIONER: Miss Chown, will
you be as lengthy as usual?

5

6

MS. CHOWN: An unusual lengthy five
minutes, if at all.

7

THE COMMISSIONER: Yes. All right.

8

Mr. Roland?

9

MR. ROLAND: I will be about the

10

same length.

11

MR. OLAH: I don't expect to have any

12

questions.

13

THE COMMISSIONER: Mr. Labow, you have?

14

MR. LABOW: About half an hour.

15

THE COMMISSIONER: Well, we have got
the better part of a day.

16

Mr. Tobias, are you --

17

MR. TOBIAS: I don't have any questions

18

at this time.

19

THE COMMISSIONER: But nevertheless
you will have Mrs. Palmer standing by, I trust?

20

MS. CRONK: I will, sir.

21

THE COMMISSIONER: I think that will

22

keep us going tomorrow.

23

Then until --

24

25



1 MR. BROWN: Mrs. Palmer, is she
2 expected to testify on a limited area?

3 THE COMMISSIONER: Yes. The syringe
4 taped --

5 MR. BROWN: Taped to Justin Cook's
6 bed.

7 THE COMMISSIONER: The one or two
8 syringes taped to Justin Cook's bed.

9 MR. BROWN: That is the only area
10 on which she is being called?

11 THE COMMISSIONER: Well, I'm not
12 going to foreclose if somebody discovers all of a
13 sudden that Mrs. Palmer has the secret to all this
14 mystery. I suppose we will have to receive it, but
15 that is really the only thing she is being called for.

16 Do you intend to go into anything
17 else?

18 MS. McINTYRE: No. She was a relief
19 nurse and as a matter of fact this was about the only
20 shift she worked.

21 THE COMMISSIONER: Yes. I really think
22 she will be a short period but I have made false
23 predictions before.

24 All right, ten o'clock then.

25 --- whereupon the hearing was adjourned at 4:30 p.m.
until Thursday, the 3rd day of May 1984, at
10:00 a.m.

